Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

Article 2-A: WASHINGTON COUNTY DEVELOPMENT AUTHORITY

§13083-A. WASHINGTON COUNTY DEVELOPMENT AUTHORITY ESTABLISHED

The Washington County Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article. The authority is authorized to take title, acquire and manage in the name of the State and by agreement with the Federal Government the property located within the geographical boundaries of any decommissioned federal military facility located within Washington County. The authority is also authorized to purchase, develop, redevelop, sell and lease commercial, residential and public property for the purpose of developing the economy of Washington County. This authorization allows the authority to provide financial and technical assistance to any governmental entity and nonprofit located within Washington County in support of community and economic development projects. [2005, c. 367, §1 (AMD).]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2005, c. 367, §1 (AMD).

§13083-B. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 568, §1 (NEW).]

1. **Authority.** "Authority" means the Washington County Development Authority.

[2001, c. 568, §1 (NEW) .]

2. **Base area.** "Base area" means the area within the geographical boundaries of any decommissioned federal military facility located within Washington County to which the authority has taken title.

[2001, c. 568, §1 (NEW) .]

2-A. **Operating revenues.** "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

[2011, c. 136, §1 (NEW) .]

3. **Primary impact community.** "Primary impact community" means all municipalities in Washington County, including the unorganized territories.

[2005, c. 367, §2 (AMD) .]

4. **Readjustment or reuse.** "Readjustment" or "reuse" means an alternative use of the base area from its use as a military installation.

[2001, c. 568, §1 (NEW) .]

5. **Real or personal property.** "Real or personal property" means any property or assets transferred by the Federal Government or the United States Department of Defense pursuant to the closure of a federal military installation located in Washington County. "Real or personal property" also means any property or assets purchased, sold, developed, redeveloped or leased by the authority pursuant to its authority under this article.

[2005, c. 367, §2 (AMD) .]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2005, c. 367, §2 (AMD). 2011, c. 136, §1 (AMD).

§13083-C. WASHINGTON COUNTY DEVELOPMENT AUTHORITY; POWERS; MEMBERSHIP; OBLIGATIONS

1. **Powers.** The authority is a public municipal corporation and may:

A. Sue and be sued; [2001, c. 568, §1 (NEW).]

B. Adopt bylaws or regulations consistent with this article for the governance of its affairs; [2001, c. 568, §1 (NEW).]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2003, c. 688, Pt. A, §2 (AMD).]

D. Accept from the Federal Government and dispose of by lease, sale or transfer the real or personal property located within the geographical boundaries of a decommissioned federal military facility located within Washington County; [2001, c. 568, §1 (NEW).]

E. Apply for and accept grants from private and public entities to provide necessary funding for the activities of the authority and to carry out the purposes of this article; [2001, c. 568, §1 (NEW).]

F. Contract with the Federal Government or its instrumentalities or agencies; this State or its agencies, instrumentalities or municipalities; public bodies; and private corporations, partnerships, associations and individuals to carry out the purposes of this article; [2001, c. 568, §1 (NEW).]

F-1. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes provided in this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [2005, c. 367, §3 (NEW).]

F-2. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article; [2005, c. 367, §3 (NEW).]

F-3. Employ an executive director and other staff as considered necessary by the board of trustees; [2005, c. 367, §3 (NEW).]

F-4. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority; [2011, c. 136, §2 (NEW).]

(Paragraph F-4 as enacted by PL 2011, c. 148, §1 is REALLOCATED TO TITLE 5, SECTION 13083-C, SUBSECTION 1, PARAGRAPH F-6)

F-5. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2011, c. 136, §3 (NEW).]

F-6. (REALLOCATED FROM T. 36, §13083-C, sub-§1, ¶F-4) Enter into a memorandum of understanding with a municipality to perform the function of a local development corporation under section 13120-B, subsection 9; [2011, c. 1, §7 (RAL).]

G. Adopt rules pursuant to the Maine Administrative Procedure Act. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; and [2001, c. 568, §1 (NEW).]

H. Take all other lawful action necessary and incidental to the powers under this subsection. [2001, c. 568, §1 (NEW).]

[2011, c. 1, §7 (COR); 2011, c. 136, §§2, 3 (AMD) .]

2. **Membership; appointment.** The authority is governed by a board of trustees composed of 13 voting members appointed or designated by the Governor.

A. The Governor shall make 12 appointments to the board of trustees, 9 of whom must be selected from candidates who are residents of Washington County and are nominated by private, nonprofit, countywide, federally recognized Washington County-based economic development organizations other than the authority. Primary impact communities

also may make nominations. The Governor shall appoint members who reflect the diversity of interests represented by these communities. The Governor shall ensure that all regions of the county, as defined by the 3 county commissioner districts, are equally represented on the board of trustees. A municipality may not have more than 2 trustees sitting on the board of trustees. [2005, c. 367, §4 (AMD).]

B. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. The ex officio member designated pursuant to this paragraph may name a designee. [2005, c. 367, §4 (AMD).]

The members appointed pursuant to paragraph A are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and to confirmation by the Senate.

[2005, c. 367, §4 (AMD) .]

3. **Terms.** Trustees are appointed for 4-year terms. The commissioner designated pursuant to subsection 2, paragraph B, or that commissioner's designee, serves at the pleasure of the Governor. Trustees may be removed by the Governor. The board of trustees by majority vote may recommend trustee removal due to poor attendance at board meetings. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of that term. A person may not serve more than 2 consecutive 4-year terms as a trustee.

[2005, c. 367, §5 (AMD) .]

4. **Quorum.** A majority of appointed and sworn trustees constitutes a quorum. A majority vote of those present and voting is required for the board of trustees to take action.

[2005, c. 367, §5 (AMD) .]

5. **Liability.** The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. Trustees are not subject to any personal liability for having acted in the service of their duty as board members of the authority.

[2001, c. 568, §1 (NEW) .]

6. **Expenses.** A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services if the authority has available funds to reimburse such expenses.

[2001, c. 568, §1 (NEW) .]

7. **Officers; temporary agents.** The trustees shall elect a chair and vice-chair from among the trustees. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may retain its own legal counsel.

[2005, c. 367, §5 (AMD) .]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2003, c. 688, §A2 (AMD). 2005, c. 367, §§3-5 (AMD).
RR 2011, c. 1, §7 (COR). 2011, c. 136, §§2, 3 (AMD). 2011, c. 148, §1 (AMD).

§13083-D. PROPERTY OF AUTHORITY

The authority may lease, sell or transfer property or interests in property owned by the authority. A person may not hold any pecuniary interest in property owned by the authority while that person is a member of the board of trustees. [2005, c. 367, §6 (AMD).]

SECTION HISTORY
2001, c. 568, §1 (NEW). 2005, c. 367, §6 (AMD).

§13083-D-1. BONDS

1. **Hearing required.** The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in Washington County and holding a duly advertised public hearing on the issuance.

[2011, c. 136, §4 (NEW) .]

2. **Authority.** The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. 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 the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [2011, c. 136, §4 (NEW).]

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [2011, c. 136, §4 (NEW).]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article 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 Finance Authority of Maine shall consider the authority'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 the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

3. **General characteristics.** Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds; [2011, c. 136, §4 (NEW).]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [2011, c. 136, §4 (NEW).]

C. The interest rate or rates of the bonds; [2011, c. 136, §4 (NEW).]

D. The denomination or denominations of the bonds; [2011, c. 136, §4 (NEW).]

E. The form of the bonds, whether coupon or registered; [2011, c. 136, §4 (NEW).]

F. The conversion or registration privileges carried by the bonds; [2011, c. 136, §4 (NEW).]

G. The rank or priority of the bonds; [2011, c. 136, §4 (NEW).]

H. The manner of execution of the bonds; [2011, c. 136, §4 (NEW).]

I. The medium and place or places of payment; [2011, c. 136, §4 (NEW).]

J. The terms of redemption of the bonds, with or without premium; [2011, c. 136, §4 (NEW).]

K. The manner secured; and [2011, c. 136, §4 (NEW).]

L. Any other characteristics of the bonds. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

4. **Price sold.** The bonds may be:

A. Sold to a person on such terms as the authority may negotiate; [2011, c. 136, §4 (NEW).]

B. Exchanged for other bonds on the basis of par; or [2011, c. 136, §4 (NEW).]

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

5. **Signatures of outgoing officers; negotiability.** If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[2011, c. 136, §4 (NEW) .]

6. **Bond recitation; conclusive presumptions.** In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[2011, c. 136, §4 (NEW) .]

7. **No personal liability; not debt of State or municipality.** Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

[2011, c. 136, §4 (NEW) .]

8. **Bonds as legal investments.** Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[2011, c. 136, §4 (NEW) .]

9. **Investment of funds; redemption of bonds.** The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and [2011, c. 136, §4 (NEW).]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price. [2011, c. 136, §4 (NEW).]

[2011, c. 136, §4 (NEW) .]

SECTION HISTORY
2011, c. 136, §4 (NEW).

§13083-E. TERMINATION OF AUTHORITY

The authority is not dissolved until it is terminated by the Legislature. [2001, c. 568, §1 (NEW).]

SECTION HISTORY
2001, c. 568, §1 (NEW).

§13083-F. ANNUAL REPORT

1. **Annual report.** The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over business and economic development matters, not later than 120 days after the close of the authority's 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 for the previous year:

A. A description of the authority's operations and activities; [2001, c. 568, §1 (NEW).]

B. An accounting of the authority's receipts and expenditures and assets and liabilities at the end of its fiscal year; [2001, c. 568, §1 (NEW).]

C. A listing of all property transactions pursuant to section 13083-D; [2001, c. 568, §1 (NEW).]

D. A statement of the authority's proposed and projected activities for the ensuing year; and [2001, c. 568, §1 (NEW).]

E. Recommendations regarding further actions that may be suitable for achieving the purposes of this article. [2001, c. 568, §1 (NEW).]

[2001, c. 568, §1 (NEW) .]

SECTION HISTORY
2001, c. 568, §1 (NEW).