TITLE 30-A

MUNICIPALITIES AND COUNTIES

PART 1

COUNTIES

CHAPTER 1

COUNTY OFFICERS

SUBCHAPTER 1

GENERAL PROVISIONS

§1. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. County legislative delegation. "County legislative delegation" means all state legislators whose legislative districts, in whole or in part, lie within the boundaries of a county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. County officers. "County officers" means the commissioners, treasurer, sheriff, register of deeds and register of probate of a county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2-A. Permanent incapacity. "Permanent incapacity" means a guardian or conservator has been appointed by a court of competent jurisdiction to manage the affairs of an office holder.
[PL 1995, c. 683, §3 (NEW).]

3. Voter. "Voter" means a person registered to vote.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. County official. "County official" means an elected or appointed member of a county government.
[PL 2005, c. 79, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 683, §3 (AMD). PL 2005, c. 79, §1 (AMD).

§2. Salaries

1. County officers' salaries.

[PL 1993, c. 653, §1 (RP).]

1-A. Knox County commissioners.

[PL 2003, c. 696, §2 (RP).]

1-B. County officers' salaries.

[PL 2003, c. 696, §3 (RP).]

2. Clerk hire and expenses. Expenses of county officers shall be allowed as follows.

A. County commissioners shall allow all necessary and proper office expenses, clerk hire and travel to the county officers, except clerks of courts. They shall also allow to the sheriffs, whether acting within or outside the county, the costs of

boarding, guarding and transporting:

(1) Prisoners, whether awaiting trial, during trial or after conviction; or

(2) Juveniles, whether awaiting hearing, during hearing or after adjudication that a juvenile offense has been committed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The Chief Justice of the Supreme Judicial Court or the Chief Justice's designee shall allow to clerks of court, for payment by the State, their necessary and proper office expenses, clerk hire and travel expenses. Clerks must obtain approval of these expenses at such time and in such manner as the Chief Justice or the Chief Justice's designee directs. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Fees and charges. The payment of fees and charges to the county treasurer is governed by the following provisions.

A. All fees and charges received by any county officer, except clerks of court, shall be paid by that county officer to the county treasurer by the 15th day of every month following the month in which they were collected. Fees received by any clerk of courts shall be paid by that clerk as elsewhere provided by law or, in the absence of express provision, to the State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. All fees and charges received by any deputy sheriff shall be paid by that deputy sheriff to the county treasurer by the 15th day of every month following the month in which they were collected, except that deputies not on a salary or per diem basis may receive and retain fees for the service of criminal or civil process.

(1) Sheriffs and their deputies shall collect fees chargeable for the service of civil process only from the litigants.

(2) Fees chargeable for the service of criminal process by deputies not on salary or per diem must be approved by the respective district attorneys and paid by the respective county treasurers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Salaries and expenses of court and jury officers. Each county shall pay the salaries and expenses of bailiffs and other court and jury officers who work for courts located in that county. The

Judicial Department shall compensate each county for these salaries and expenses as provided in Title 4, section 25.
[PL 1991, c. 570, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A1,C8,10 (AMD). PL 1989, c. 476 (AMD). PL 1989, c. 517, §1 (AMD). PL 1989, c. 928 (AMD). PL 1991, c. 541, §§1,2 (AMD). PL 1991, c. 570, §3 (AMD). PL 1991, c. 852 (AMD). RR 1993, c. 2, §25 (COR). PL 1993, c. 349, §63 (AMD). PL 1993, c. 408, §1 (AMD). PL 1993, c. 653, §§1,2 (AMD). PL 1995, c. 500, §1 (AMD). PL 1995, c. 500, §2 (AFF). PL 1995, c. 701, §1 (AMD). PL 1995, c. 701, §2 (AFF). PL 1997, c. 448, §§1,2 (AMD). PL 1997, c. 448, §3 (AFF). PL 1997, c. 721, §1 (AMD). PL 1997, c. 721, §2 (AFF). PL 1999, c. 377, §1 (AMD). PL 1999, c. 377, §2 (AFF). PL 1999, c. 662, §1 (AMD). PL 1999, c. 662, §2 (AFF). PL 2001, c. 161, §1 (AMD). PL 2001, c. 161, §2 (AFF). PL 2003, c. 696, §§2,3 (AMD).

§3. Expense accounts to be under oath

Whenever required by law to provide a bill of expenses, every county officer shall itemize the bill and swear, before presenting it for auditing or payment, that it includes only actual cash spent in performing the officer's official duties. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4. County officer's private benefit from county labor

No county officer may receive a private benefit from the labor of any person employed by the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5. Conflicts of interest

Sections 2604 and 2605, invalidating certain actions due to conflicts of interest, apply to all county officials. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6. Transition period

There is a 30-day transition period for all newly elected county officers from December 1st to January 1st in each year. During this period, each newly elected county officer may, without pay, attend the office to which that county officer has been elected in order to become familiar with its duties. During this period, all of the personnel of that office, including the incumbent county officer, shall assist the officer in learning the duties of that office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7. Violation and penalty

Any agent or officer who willfully violates section 701, 921, 922, 923, 924 or 951 is guilty of a Class E crime. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§8. Civil violation

Any county officer who fails to follow the requirements of this chapter or chapter 3 commits a civil violation for which a forfeiture of not more than $200 may be adjudged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

COUNTY COMMISSIONERS

ARTICLE 1

GENERAL PROVISIONS

§51. Salaries; county commissioners

1. Salaries; time of payment. Except as provided in section 82, the county commissioners in the several counties shall receive annual salaries as set forth in section 2 from the county treasurer in weekly, biweekly, monthly, semiannual or annual payments, as determined by the county commissioners. If these payments are made monthly, they shall be made on the last day of each month; if semiannually, they shall be made on the last day of June and the last day of December; if annually, they shall be made on the last day of December.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Salaries; full compensation. These salaries are in full compensation for all services of the commissioners, including the management of the jails and for any expenses or travel to and from the county seat for any commissioner, except as provided in subsection 3 and section 105.
[PL 2001, c. 349, §1 (AMD).]

3. Travel expenses. Travel expenses shall be allowed as follows.

A. The county commissioners may allow, by majority vote, the payment of all necessary and proper expenses and travel allowances to and from the county seat by commissioners who live more than 5 miles from the county seat. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When outside of the county seat on official business, including attendance at or participation in public hearings, inspection and supervision of construction, snow removal and maintenance of roads in unincorporated townships in their county, all county commissioners shall be allowed in addition to their salaries all necessary traveling and hotel expenses connected with those activities. All bills for expenses under this paragraph must be approved by the district attorney serving their county and shall be paid by the treasurer of the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 349, §1 (AMD).

§52. Incompatible offices

1. Municipal offices. No person holding the office of county commissioner may at the same time hold either the office of mayor or assessor of a city or the office of selectman or assessor of a town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. County offices. No county commissioner, during the term for which that commissioner has been elected and for one year thereafter may be appointed to any office of profit or employment position of the county, which was created or the compensation of which was increased by the action of the county commissioners during the county commissioner's term. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§53. Commissioner not agent; spend money

No commissioner may be appointed to expend money assessed or raised for any purpose by the board of which that commissioner is a member. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 2

ELECTION AND TENURE

§61. Board of commissioners; election; chairman

There shall be a board of commissioners for each county consisting of a chairman and 2 other persons. Each of the commissioners of a county must represent one of the commissioner districts established by law for the commissioner's county. [PL 2003, c. 43, §1 (AMD).]

1. Residency; election by district. Members of each board of commissioners must be residents of the commissioner district which they represent and shall be elected by the voters of that district.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Mode of election. County commissioners shall be elected on the Tuesday following the first Monday of November in each even-numbered year. The votes shall be received, sorted, counted and declared in the same manner as votes for Representatives. The municipal clerk shall record in the municipal records the names of the persons voted for, the number of votes for each and the whole number of ballots received. The municipal clerk shall send true copies of these records, sealed and attested in the same manner as returns of votes for Senators, to the Secretary of State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Chairman. The commissioners shall select their chairman annually at their first meeting on or after the first day of January to act for one year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 43, §1 (AMD).

§61-A. York County

Notwithstanding section 61, there shall be a Board of Commissioners for York County consisting of a chair and 4 other citizens. All other provisions of section 61 apply to York County. [PL 1989, c. 220, §§1, 4 (NEW).]

SECTION HISTORY

PL 1989, c. 220, §§1,4 (NEW).

§62. Vacancies; expiration of term

Vacancies to occur by expiration of the term of office at the end of any year in which a biennial election is held shall be filled by election on the Tuesday following the first Monday of November in that year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Term of office. The term of office for a county commissioner is 4 years, except when a person is elected to fill an unexpired term, in which case it is for the remainder of the unexpired term.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Election designation.
[PL 2019, c. 371, §40 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 371, §40 (AMD).

§63. Vacancies during other times

When no choice is effected or a vacancy happens in the office of county commissioner by death, resignation, removal from the county, permanent incapacity or for any other reason, the Governor shall appoint a person to fill the vacancy. That person shall hold office until the first day of January following the next biennial election at which a person is elected to fill the office. [PL 1995, c. 683, §4 (AMD).]

In the case of a vacancy in the term of a commissioner who was nominated by primary election before the general election, the commissioner appointed by the Governor must be enrolled in the same political party as the commissioner whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county committee of the political party from which the appointment is to be made. [PL 1995, c. 245, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 245, §3 (AMD). PL 1995, c. 683, §4 (AMD).

§64. Military or naval service; substitutes

Whenever a county commissioner during the commissioner's term of office in time of war, contemplated war or emergency, enlists, enrolls, is called or ordered or drafted into the military or naval service of the United States, that commissioner is not deemed to have thereby resigned from or abandoned the office, nor is the commissioner removable from that office during the period of military or naval service except that the term of office is not lengthened because of this section. From the time of induction into service, the commissioner is regarded as on leave of absence without pay from the office, and the Governor shall appoint a competent citizen, a resident of the same county, to fill the office while the county commissioner is in the federal service, but not for a longer period than the remaining portion of that commissioner's term. In the case of a vacancy in the term of a commissioner who was nominated by primary election before the general election, the commissioner appointed by the Governor must be enrolled in the same political party as the commissioner whose term was vacant. During the period of military or naval service, the county shall pay to the substitute county commissioner a salary at the same rate as the rate of pay of the county commissioner and amounts so paid shall be deducted from the salary of the county commissioner. The citizen appointed to fill the temporary vacancy has the title of "substitute county commissioner" and possesses all the rights and powers and is subject to all the duties and obligations of the county commissioner. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§65. Apportionment of county commissioner districts

1. Redistricting, generally. In 2021 and every 10 years thereafter, the apportionment commission established under the Constitution of Maine, Article IV, Part Third, Section 1-A shall review the existing county commissioner districts and, as necessary, reapportion those districts in each county to establish as nearly as practicable equally populated districts. The Speaker of the House is responsible for calling the commission together to review the county commissioner districts. No action may be taken by the commission without a quorum of 7.

A. The apportionment commission shall divide the number of commissioners in each county into the number of inhabitants of the county, excluding foreigners not naturalized, according to the latest Federal Decennial Census or a state census previously ordered by the Legislature to coincide with the Federal Decennial Census, to determine a mean population figure for each county commissioner district. Each county commissioner district must be formed of contiguous and compact territory and must cross political subdivision lines the least number of times necessary to establish as nearly

as practicable equally populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts must be drawn within the municipal boundaries. Any population remainder within the municipality must be included in a district drawn to cross the municipal boundary as long as the population remainder within the municipality is contiguous to another municipality or municipalities included in the district. Any county that already meets the standards and guidelines for equally populated districts, as established by this section, the Constitution of Maine and the Constitution of the United States, need not be reapportioned. [PL 2013, c. 85, §2 (AMD).]

B. Interested parties from each county may submit redistricting plans for the commission to consider. Those plans must be submitted to the commission no later than 30 calendar days after the commission is called together by the Speaker of the House under this subsection. The commission may hold public hearings on plans affecting each county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The commission shall submit its plan to the Clerk of the House no later than June 1st of the year in which reapportionment is required. The Clerk of the House shall submit to the Legislature, no later than January 15, 2022, and every 10th year thereafter, one legislative document to reapportion the county commissioner districts based on the plan submitted by the apportionment commission. The Legislature must enact the submitted plan or a plan of its own in regular or special session by a vote of 2/3 of the members of each House within 30 calendar days after the plan is submitted to it by the Clerk of the House. This action is subject to the Governor's approval, as provided in the Constitution of Maine, Article IV, Part Third, Section 2. [PL 2013, c. 85, §2 (AMD).]

[PL 2013, c. 85, §2 (AMD).]

2. Supreme Judicial Court. If the Legislature fails to make an apportionment within the 30 calendar days, the Supreme Judicial Court shall make the apportionment within 60 calendar days following the period in which the Legislature is required to act, but fails to do so. In making the apportionment, the Supreme Judicial Court shall consider plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Funding. The commission shall make equal amounts of money available to the 2 major parties represented on the commission for the purpose of this apportionment. In addition, sufficient funds shall be made available to the chairman of the commission. The commission shall recommend to the Legislature, if that body is in session, otherwise to the Legislative Council, an appropriation sufficient to cover the cost of reapportionment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 85, §2 (AMD).

§66. County commissioner districts

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1987, c. 871 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 220, §§2,4 (AMD). PL 1993, c. 554, §1 (AMD). PL 1995, c. 462, §A50 (AMD). PL 1995, c. 501, §1 (AMD). PL 1995, c. 611,

§B1 (AMD). PL 2003, c. 43, §2 (RP). PL 2003, c. 62, §3 (AMD). PL 2003, c. 62, §§5,6 (AFF). PL 2003, c. 291, §1 (RP).

§66-A. County commissioner districts

(REPEALED)

SECTION HISTORY

PL 2003, c. 291, §2 (NEW). PL 2003, c. 508, §1 (AMD). PL 2003, c. 534, §2 (AMD). PL 2003, c. 534, §5 (AFF). PL 2005, c. 683, §A50 (AMD). PL 2013, c. 270, Pt. C, §1 (RP).

§66-B. County commissioner districts

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Creation of Androscoggin County Commissioner Districts. Androscoggin County is divided into the following 7 districts.

A. Commissioner District Number 1, in the County of Androscoggin, consists of the following census units in the minor civil division of Lewiston: Tract 020100; Blocks 1012, 1013, 1015, 1016, 2008, 2009, 2010, 2011 and 2012 of Tract 020200; Blocks 1011, 1012, 1013, 1014, 1017, 1018, 1019, 1020, 1021, 1022, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2020, 2021, 2022, 2023, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 4000, 4001, 4002, 4003, 4004, 4005, 4006, 4007, 4008, 4009, 4010 and 4011 of Tract 020300; Tract 020400; Blocks 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031 and 3032 of Tract 020500; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 2014, 2015, 2016, 2017, 2018, 2019 and 2058 of Tract 020600; Blocks 2019, 2020, 2021, 2022 and 2023 of Tract 020700; and Block 1034 of Tract 020800. The term of office of the county commissioner from this district expires in 2014, and an election must be held in 2014 to fill the office for a 2-year term, expiring in 2016. The term of office for the county commissioner from this district expires every 4 years thereafter. [PL 2013, c. 457, §14 (AMD).]

B. Commissioner District Number 2, in the County of Androscoggin, consists of the following census units in the minor civil division of Lewiston: Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1014, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2013, 2014, 2015, 2016 and 2017 of Tract 020200; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1015, 1016, 1023, 2000, 2001, 2017, 2018, 2019 and 2024 of Tract 020300; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006 and 1007 of Tract 020500; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014 and 3015 of Tract 020700; Blocks 2000, 2001, 2002, 2003, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 4012, 4013, 4015, 4016, 4017 and 4018 of Tract 020800; and Tract 020900. The term of office of the county commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Androscoggin, consists of the minor civil divisions of Durham and Greene; and the following census units in the minor civil division of Lewiston: Blocks 3019, 3020, 3021 and 3022 of Tract 020500; Blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2020, 2021, 2022, 2023, 2024, 2025,

2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078 and 2079 of Tract 020600; and Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 3012, 4000, 4001, 4002, 4003, 4004, 4005, 4006, 4007, 4008, 4009, 4010, 4011, 4014, 4019, 4020, 4021, 4022, 4023, 4024 and 4025 of Tract 020800. The term of office of the county commissioner from this district expires in 2014 and every 4 years thereafter. [RR 2013, c. 1, §47 (COR).]

D. Commissioner District Number 4, in the County of Androscoggin, consists of the minor civil divisions of Lisbon, Sabattus and Wales. The term of office of the county commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 457, §14 (AMD).]

E. Commissioner District Number 5, in the County of Androscoggin, consists of the following census units in the minor civil division of Auburn: Tract 010100; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 2000, 2001, 2002, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3066, 3068, 3069 and 3070 of Tract 010200; Tract 010300; Tract 010400; Tract 010500; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2015 of Tract 010600; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1020, 1023, 1024, 1025, 1026, 2036, 2037, 2038, 2039 and 2040 of Tract 010700; and Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021 and 1022 of Tract 010800. The term of office of the county commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 457, §14 (AMD).]

F. Commissioner District Number 6, in the County of Androscoggin, consists of the following census units in the minor civil division of Auburn: Blocks 2003, 2004, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051, 3065, 3067 and 3071 of Tract 010200; Blocks 2011, 2012, 2013, 2014, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100 and 2101 of Tract 010600; Blocks 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1021, 1022, 1027, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074 and 2075 of Tract 010700; and Blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046 and 2047 of Tract 010800; and the minor civil divisions of Mechanic Falls and Poland. The term of office of the county commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 457, §14 (AMD).]

G. Commissioner District Number 7, in the County of Androscoggin, consists of the minor civil divisions of Leeds, Livermore, Livermore Falls, Minot and Turner. The term of office of the county commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 457, §14 (AMD).]

[PL 2013, c. 457, §14 (AMD).]

2. Creation of Aroostook County Commissioner Districts. Aroostook County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Aroostook, consists of the minor civil divisions and unorganized territories of Amity, Bancroft, Blaine, Bridgewater, Cary, Central Aroostook, Crystal, Dyer Brook, Easton, Fort Fairfield, Glenwood, Hammond, Haynesville, Hersey, Hodgdon, Houlton, Island Falls, Linneus, Littleton, Ludlow, Macwahoc, Mars Hill, Merrill, Monticello, Moro, New Limerick, Oakfield, Orient, Oxbow, Reed, Sherman, Smyrna, South Aroostook and Weston and the following census unit of the Penobscot River: Block 4293 of Tract 952900. The term of office of the county commissioner from this district expires in 2014 and every 4 years thereafter. [RR 2013, c. 1, §48 (COR).]

B. Commissioner District Number 2, in the County of Aroostook, consists of the minor civil divisions and unorganized territories of Ashland, Caribou, Castle Hill, Chapman, Garfield, Mapleton, Masardis, Northwest Aroostook, Presque Isle, Washburn and Westfield. The term of office of the county commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Aroostook, consists of the minor civil divisions and unorganized territories of Allagash, Caswell, Connor Township, Cyr, Eagle Lake, Fort Kent, Frenchville, Grand Isle, Hamlin, Limestone, Madawaska, Nashville, New Canada, New Sweden, Perham, Portage Lake, Square Lake, St. Agatha, St. Francis, St. John, Stockholm, Van Buren, Wade, Wallagrass, Westmanland, Winterville and Woodland. The term of office of the county commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[RR 2013, c. 1, §48 (COR).]

3. Creation of Cumberland County Commissioner Districts. Cumberland County is divided into the following 5 districts.

A. Commissioner District Number 1, in the County of Cumberland, consists of the minor civil divisions of Baldwin, Bridgton, Gorham, Scarborough, Sebago and Standish. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Cumberland, consists of the minor civil divisions of Casco, Falmouth, Frye Island, Gray, Harrison, Naples, New Gloucester, Raymond and Windham. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Cumberland, consists of the minor civil divisions of Brunswick, Chebeague Island, Cumberland, Freeport, Harpswell, Long Island, North Yarmouth, Pownal and Yarmouth. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

D. Commissioner District Number 4, in the County of Cumberland, consists of the minor civil division of Cape Elizabeth; the following census units in the minor civil division of Portland: Tract 002101; Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1029, 2001, 2002, 2003, 2004, 2005, 2006, 2013, 2014, 2015, 2016, 2017, 2018 and 2044 of Tract 002102; and Blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1016, 1019, 2000 and 2001 of Tract 002200; and the minor

civil divisions of South Portland and Westbrook. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 457, §15 (AMD).]

E. Commissioner District Number 5, in the County of Cumberland, consists of the following census units in the minor civil division of Portland: Tract 000100; Tract 000200; Tract 000300; Tract 000500; Tract 000600; Tract 001000; Tract 001100; Tract 001200; Tract 001300; Tract 001500; Tract 001700; Tract 001800; Tract 001900; Tract 002001; Tract 002002; Blocks 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 2000, 2007, 2008, 2009, 2010, 2011, 2012, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2045, 2046, 2047, 3000, 3001, 3002, 3003, 3004, 3005, 3006 and 3007 of Tract 002102; Blocks 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1017, 1018, 1020, 1021, 1022, 1023, 1024, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031 and 2032 of Tract 002200; Tract 002300; Tract 002400; and Blocks 0006, 0007, 0012, 0017, 0018, 0019, 0021, 0022, 0023, 0024, 0026 and 0027 of Tract 990000. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 457, §15 (AMD).]

4. (TEXT IN EFFECT PENDING REFERENDUM: See PL 2019, c. 362, §3) Creation of Franklin County Commissioner Districts. Franklin County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Carthage, Jay, South Franklin, Temple and Wilton. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Franklin, consists of the minor civil divisions of Chesterville, Farmington and New Sharon. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Avon, Carrabassett Valley, Coplin, Dallas, East Central Franklin, Eustis, Industry, Kingfield, New Vineyard, North Franklin, Phillips, Rangeley, Rangeley Plantation, Sandy River, Strong, Weld, West Central Franklin and Wyman Township. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

4. (TEXT REPEALED IF REFERENDUM PASSES: See PL 2019, c. 362, §3) Creation of Franklin County Commissioner Districts.

[PL 2019, c. 362, §1 (RP); PL 2019, c. 362, §1 (AFF).]

4-A. (TEXT EFFECTIVE IF REFERENDUM PASSES: See PL 2019, c. 362, §3) Creation of Franklin County Commissioner Districts. Franklin County is divided into the following districts.

A. Until the first election held after the 2021 redistricting conducted in accordance with the Constitution of Maine, Article IX, Section 25, Franklin County is divided into 3 districts.

(1) Commissioner District Number 1, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Carthage, Jay, South Franklin, Temple and Wilton. The term of office of the commissioner from this district expires in 2020 and then in 2022.

(2) Commissioner District Number 2, in the County of Franklin, consists of the minor civil divisions of Chesterville, Farmington and New Sharon. The term of office of the commissioner from this district expires in 2020 and then in 2022.

(3) Commissioner District Number 3, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Avon, Carrabassett Valley, Coplin, Dallas, East Central Franklin, Eustis, Industry, Kingfield, New Vineyard, North Franklin, Phillips, Rangeley, Rangeley Plantation, Sandy River, Strong, Weld, West Central Franklin and Wyman Township. The term of office of the commissioner from this district expires in 2022. [PL 2019, c. 362, §2 (NEW); PL 2019, c. 362, §3 (AFF).]

B. For purposes of the reapportionment and redistricting conducted in accordance with the Constitution of Maine, Article IX, Section 25, Franklin County is divided into 5 districts. The redistricting must reflect 5 commissioner districts for Franklin County and in addition must align as closely as practicable with the following:

(1) Commissioner District Number 1, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Temple, Wilton and the portion of Farmington located on the west side of the Sandy River. The term of office of the commissioner from this district expires in 2024 and every 4 years thereafter.

(2) Commissioner District Number 2, in the County of Franklin, consists of the portion of Farmington located on the east side of the Sandy River. The term of office of the commissioner from this district expires in 2024 and every 4 years thereafter.

(3) Commissioner District Number 3, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Avon, Carthage, Coplin, Eustis, North Franklin, Phillips, Rangeley, Rangeley Plantation, Sandy River, South Franklin, Strong, Weld and West Central Franklin. The term of office of the commissioner from this district expires in 2024 and every 4 years thereafter.

(4) Commissioner District Number 4, in the County of Franklin, consists of the minor civil divisions and unorganized territories of Carrabassett Valley, Dallas, East Central Franklin, Industry, Kingfield, New Sharon, New Vineyard and Wyman Township. The term of office of the commissioner from this district expires in 2026 and every 4 years thereafter.

(5) Commissioner District Number 5, in the County of Franklin, consists of the minor civil divisions of Chesterville and Jay. The term of office of the commissioner from this district expires in 2026 and every 4 years thereafter. [PL 2019, c. 362, §2 (NEW); PL 2019, c. 362, §3 (AFF).]

[PL 2019, c. 362, §2 (NEW); PL 2019, c. 362, §3 (AFF).]

5. Creation of Hancock County Commissioner Districts. Hancock County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Hancock, consists of the minor civil divisions and unorganized territories of Amherst, Aurora, Blue Hill, Central Hancock, East Hancock, Eastbrook, Ellsworth, Gouldsboro, Great Pond, Mariaville, Northwest Hancock, Osborn, Otis, Sorrento, Sullivan, Surry, Waltham and Winter Harbor. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Hancock, consists of the minor civil divisions of Brooklin, Brooksville, Bucksport, Castine, Dedham, Deer Isle, Orland, Penobscot, Sedgwick, Stonington and Verona Island. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Hancock, consists of the minor civil divisions and unorganized territories of Bar Harbor, Cranberry Isles, Franklin, Frenchboro, Hancock, Lamoine, Marshall Island, Mount Desert, Southwest Harbor, Swan's Island, Tremont and Trenton. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

6. Creation of Kennebec County Commissioner Districts. Kennebec County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Kennebec, consists of the minor civil divisions of Augusta, Chelsea, China, Manchester, Sidney, Vassalboro and Windsor. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Kennebec, consists of the minor civil divisions of Farmingdale, Fayette, Gardiner, Hallowell, Litchfield, Monmouth, Mount Vernon, Pittston, Randolph, Readfield, Vienna, Wayne, West Gardiner and Winthrop. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Kennebec, consists of the minor civil divisions and unorganized territories of Albion, Belgrade, Benton, Clinton, Oakland, Rome, Unity Township, Waterville and Winslow. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

7. Creation of Knox County Commissioner Districts. Knox County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Knox, consists of the minor civil divisions of Owls Head, Rockland, South Thomaston and Thomaston. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Knox, consists of the minor civil divisions of Cushing, Friendship, St. George, Union, Warren and Washington. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Knox, consists of the minor civil divisions and unorganized territories of Appleton, Camden, Criehaven, Hope, Isle au Haut, Matinicus Isle, Muscle Ridge Islands, North Haven, Rockport and Vinalhaven. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 457, §16 (AMD).]

[PL 2013, c. 457, §16 (AMD).]

8. Creation of Lincoln County Commissioner Districts. Lincoln County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Lincoln, consists of the minor civil divisions of Boothbay, Boothbay Harbor, Edgecomb, Southport, Westport Island and Wiscasset. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Lincoln, consists of the minor civil divisions and unorganized territories of Bremen, Bristol, Louds Island, Monhegan, Nobleboro, South Bristol

and Waldoboro. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Lincoln, consists of the minor civil divisions and unorganized territories of Alna, Damariscotta, Dresden, Hibberts Gore, Jefferson, Newcastle, Somerville and Whitefield. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

9. Creation of Oxford County Commissioner Districts. Oxford County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Oxford, consists of the minor civil divisions and unorganized territories of Brownfield, Denmark, Fryeburg, Greenwood, Hiram, Lovell, Norway, Porter, South Oxford, Stoneham, Stow, Sweden and Waterford. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Oxford, consists of the minor civil divisions and unorganized territories of Andover, Bethel, Byron, Canton, Dixfield, Gilead, Hanover, Lincoln, Magalloway, Mexico, Milton Township, Newry, North Oxford, Peru, Roxbury, Rumford and Upton. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Oxford, consists of the minor civil divisions of Buckfield, Hartford, Hebron, Otisfield, Oxford, Paris, Sumner, West Paris and Woodstock. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

10. Creation of Penobscot County Commissioner Districts. Penobscot County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Penobscot, consists of the minor civil divisions of Bangor, Brewer, Clifton, Eddington, Holden and Veazie. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Penobscot, consists of the minor civil divisions of Carmel, Charleston, Corinna, Corinth, Dexter, Dixmont, Etna, Exeter, Garland, Glenburn, Hampden, Hermon, Hudson, Kenduskeag, Levant, Newburgh, Newport, Orrington, Plymouth and Stetson. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Penobscot, consists of the minor civil divisions and unorganized territories of Alton; Argyle Township; Bradford; Bradley; Burlington; Carroll; Chester; Drew; East Central Penobscot; East Millinocket; Edinburg; Enfield; Greenbush; Howland; Kingman Township; Lagrange; Lakeville; Lee; Lincoln; Lowell; Mattawamkeag; Maxfield; Medway; Milford; Millinocket; Mount Chase; North Penobscot; Old Town; Orono; Passadumkeag; Patten; Penobscot Indian Island; Prentiss Township; Seboeis; Springfield; Stacyville; Twombly Ridge Township, T3R1 NBPP; Webster; Whitney (Pukakon) Township, T5R1 NBPP; Winn; and Woodville. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

11. Creation of Piscataquis County Commissioner Districts. Piscataquis County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Piscataquis, consists of the minor civil divisions of Abbot, Blanchard, Guilford, Kingsbury, Monson, Parkman, Sangerville, Shirley, Wellington and Willimantic. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Piscataquis, consists of the minor civil divisions and unorganized territories of Atkinson, Bowerbank, Dover-Foxcroft, Medford, Sebec and Orneville Township. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Piscataquis, consists of the minor civil divisions and unorganized territories of Beaver Cove, Brownville, Greenville, Lake View, Milo, Northeast Piscataquis and Northwest Piscataquis. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

12. Creation of Sagadahoc County Commissioner Districts. Sagadahoc County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Sagadahoc, consists of the minor civil divisions of Bowdoin and Topsham. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Sagadahoc, consists of the minor civil divisions of Bath and Bowdoinham. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Sagadahoc, consists of the minor civil divisions of Arrowsic, Georgetown, Perkins Island, Phippsburg, Richmond, West Bath and Woolwich. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

13. Creation of Somerset County Commissioner Districts. Somerset County is divided into the following 5 districts.

A. Commissioner District Number 1, in the County of Somerset, consists of the minor civil divisions of Fairfield and Norridgewock. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Somerset, consists of the minor civil divisions of Anson, Madison, Mercer, New Portland, Smithfield and Starks. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Somerset, consists of the minor civil divisions of Cambridge, Detroit, Palmyra, Pittsfield, Ripley and St. Albans. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

D. Commissioner District Number 4, in the County of Somerset, consists of the minor civil divisions of Canaan and Skowhegan. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

E. Commissioner District Number 5, in the County of Somerset, consists of the minor civil divisions and unorganized territories of Athens, Bingham, Brighton, Caratunk, Central Somerset, Cornville, Dennistown Plantation, Embden, Harmony, Hartland, Highland, Jackman, Moose River, Moscow, Northeast Somerset, Northwest Somerset, Pleasant Ridge, Seboomook Lake, Solon, The

Forks and West Forks. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

14. Creation of Waldo County Commissioner Districts. Waldo County is divided into the following 3 districts.

A. Commissioner District Number 1, in the County of Waldo, consists of the minor civil divisions of Belfast, Belmont, Islesboro, Lincolnville, Morrill, Northport and Waldo. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of Waldo, consists of the minor civil divisions of Frankfort, Jackson, Monroe, Prospect, Searsport, Stockton Springs, Swanville and Winterport. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of Waldo, consists of the minor civil divisions of Brooks, Burnham, Freedom, Knox, Liberty, Montville, Palermo, Searsmont, Thorndike, Troy and Unity. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

15. Creation of Washington County Commissioner Districts. Washington County is divided into the following 3 districts.

A. Commissioner District Number 1, in Washington County, consists of the minor civil divisions and unorganized territories of Alexander, Baileyville, Baring, Beddington, Calais, Charlotte, Codyville, Cooper, Crawford, Danforth, Deblois, Grand Lake Stream, Marshfield, Meddybemps, North Washington, Northfield, Passamaquoddy Indian Township, Princeton, Robbinston, Talmadge, Topsfield, Vanceboro, Waite, Wesley and Whitneyville. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in Washington County, consists of the minor civil divisions and unorganized territories of Cutler, Dennysville, East Central Washington, East Machias, Eastport, Lubec, Machias, Passamaquoddy Pleasant Point, Pembroke, Perry and Whiting. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in Washington County, consists of the minor civil divisions of Addison, Beals, Cherryfield, Columbia, Columbia Falls, Harrington, Jonesboro, Jonesport, Machiasport, Milbridge, Roque Bluffs and Steuben. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

16. Creation of York County Commissioner Districts. York County is divided into the following 5 districts.

A. Commissioner District Number 1, in the County of York, consists of the minor civil divisions of Acton, Berwick, Cornish, Lebanon, Limerick, Limington, Newfield, North Berwick, Parsonsfield and South Berwick. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

B. Commissioner District Number 2, in the County of York, consists of the minor civil divisions of Arundel, Biddeford, Kennebunk and Kennebunkport. The term of office of the commissioner

from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

C. Commissioner District Number 3, in the County of York, consists of the minor civil divisions of Buxton, Dayton, Hollis, Old Orchard Beach and Saco. The term of office of the commissioner from this district expires in 2014 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

D. Commissioner District Number 4, in the County of York, consists of the minor civil divisions of Alfred, Lyman, Sanford, Shapleigh and Waterboro. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

E. Commissioner District Number 5, in the County of York, consists of the minor civil divisions of Eliot, Kittery, Ogunquit, Wells and York. The term of office of the commissioner from this district expires in 2016 and every 4 years thereafter. [PL 2013, c. 270, Pt. C, §2 (NEW).]

[PL 2013, c. 270, Pt. C, §2 (NEW).]

SECTION HISTORY

RR 2013, c. 1, §§47, 48 (COR). PL 2013, c. 270, Pt. C, §2 (NEW). PL 2013, c. 457, §§14-16 (AMD). PL 2019, c. 362, §§1, 2 (AMD). PL 2019, c. 362, §§1-3 (AFF).

ARTICLE 3

SESSIONS

§71. Sessions; times and places; notice

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 696, §4 (RP).

§72. Quorum

A majority of the commissioners constitutes a quorum. When fewer attend, they may adjourn to a convenient time and place. When no commissioner attends, the clerk may adjourn the meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 4

CLERK: COUNTY ADMINISTRATOR

§81. Designation of clerk; duties

1. Appointment of clerk; term; clerk pro tempore. The county commissioners in each county may appoint a suitable person to serve as clerk to the county commissioners. If the county has a county

administrator, the commissioners may not appoint a clerk. The clerk of the county commissioners shall be known as the county clerk.

A. The county clerk serves at the will of the county commissioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When a clerk is absent, the clerk may appoint a clerk pro tempore to the commissioners for whose actions the clerk is responsible. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties; commissioners' records. County clerks must be sworn and shall make a record of the actions of the county commissioners. The commissioners shall examine these records and, when correct, shall certify them and they shall be adopted into the records of the county commissioners by the clerk.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§82. County administrator

The county commissioners of each county may appropriate funds for the hiring of a county administrator. If the county commissioners do not hire a full-time county administrator, then no county employee, other than county commissioners, may perform any of the administrative functions of a county administrator. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Appointment; qualifications. The county commissioners shall choose the county administrator solely on the basis of executive and administrative qualifications with special reference to the actual experience in, or knowledge of, the duties of the office as set forth in the policies established by the board of county commissioners and by law.

A. At the time of appointment, the county administrator need not be a resident of the county, but, while in office, the county administrator may reside outside the county only with the county commissioners' approval. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A county administrator may not hold any other elective or appointed county office, except as provided in this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Compensation; tenure of office. The county commissioners shall determine the compensation of the county administrator. The county administrator shall hold office for an indefinite term unless otherwise specified by contract. The county commissioners may, for cause, remove or suspend the county administrator in accordance with the procedure for removing or suspending a town manager

under section 2633. In the absence or during the disability of the county administrator, the county commissioners may appoint an official of the county to perform the administrator's duties.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Duties. The county administrator is the chief administrative official of the county and is responsible for the administration of all departments and offices controlled by the county commissioners. The county administrator shall act as the clerk of the county. The county administrator shall act as purchasing agent for all departments and offices of the county, although the county commissioners may require that all purchases greater than a designated amount must be submitted to sealed bid. The county administrator shall attend all meetings of the county commissioners, except when the county administrator's removal or suspension is being considered. The county administrator shall keep the county commissioners and the county legislative delegation informed as to the financial condition of the county and shall collect all data necessary to prepare the budget.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. County commissioners' compensation.

[PL 2001, c. 667, Pt. A, §47 (RP).]

5. Cumberland County manager required. Notwithstanding the other provisions of this section, no later than January 1, 1996, the county commissioners of Cumberland County shall hire a full-time county manager, who works under their direction to oversee the implementation of county policy and the day-to-day administration of county operations. The appointment, compensation and tenure of the manager are the same as provided for a county administrator pursuant to subsections 1 and 2. The manager:

A. Is responsible for the administration of all departments and offices controlled by the county commissioners; [PL 1995, c. 380, §2 (NEW).]

B. In conjunction with the county commissioners, department heads and budget committee, shall develop a proposed county budget for the coming year, which must be presented to the commissioners no later than October 1st; [PL 1995, c. 380, §2 (NEW).]

C. Shall keep the county commissioners and the county legislative delegation informed as to the financial condition of the county and collect all data necessary to prepare the budget; [PL 1995, c. 380, §2 (NEW).]

D. Shall attend all meetings of the county commissioners, except when the manager's removal or suspension is being considered; and [PL 1995, c. 380, §2 (NEW).]

E. Shall carry out other administrative duties assigned by the commissioners. [PL 1995, c. 380, §2 (NEW).]

[PL 1995, c. 380, §2 (NEW).]

6. York County manager required. Notwithstanding the other provisions of this section, no later than January 1, 2002, the county commissioners of York County shall hire a full-time county manager, who works under their direction to oversee the implementation of county policy and the day-to-day administration of county operations. The appointment, compensation and tenure of the manager are the same as provided for a county administrator pursuant to subsections 1 and 2. The manager:

A. Is responsible for the administration of all departments and offices controlled by the county commissioners; [PL 2001, c. 107, §2 (NEW).]

B. In conjunction with the county commissioners, department heads and budget committee, shall develop a proposed county budget for the coming year, which must be presented to the commissioners no later than October 1st; [PL 2001, c. 107, §2 (NEW).]

C. Shall keep the county commissioners and the county legislative delegation informed as to the financial condition of the county and collect all data necessary to prepare the budget; [PL 2001, c. 107, §2 (NEW).]

D. Shall attend all meetings of the county commissioners, except when the manager's removal or suspension is being considered; and [PL 2001, c. 107, §2 (NEW).]

E. Shall carry out other administrative duties assigned by the commissioners. [PL 2001, c. 107, §2 (NEW).]

[PL 2001, c. 107, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A2,C8,10 (AMD). PL 1995, c. 380, §§1,2 (AMD). PL 2001, c. 107, §§1,2 (AMD). PL 2001, c. 349, §2 (AMD). PL 2001, c. 667, §A47 (AMD).

ARTICLE 5

POWERS AND DUTIES

§101. Commissioners' duties

The commissioners of each county shall: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Receipts and expenditures. Examine, allow and settle accounts of the money of the county;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Representation. Represent the county;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Manage property and business. Care for its property and manage its business;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Convey real estate. By a recorded order, appoint an agent to convey its real estate;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. County ways. Lay out, alter or discontinue ways;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Keep books and accounts. Keep their books and accounts on forms and in a manner approved by the Office of the State Auditor;
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 561, §17 (AMD); PL 2013, c. 16, §10 (REV).]

6-A. Adopt ethics policy. In their discretion, the county commissioners may adopt an ethics policy governing the conduct of elected and appointed county officials.
[PL 1989, c. 561, §18 (NEW).]

6-B. Support the State Board of Corrections.

[PL 2015, c. 335, §6 (RP).]

7. Other duties. Perform all other duties required by law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 561, §§17,18 (AMD). PL 2007, c. 653, Pt. A, §5 (AMD). PL 2013, c. 16, §10 (REV). PL 2015, c. 335, §6 (AMD).

§102. County commissioners' authority

The county commissioners have final authority over the operation of all county offices by elected or appointed county officials, except in circumstances for which a County Personnel Board has been established under subchapter VII, article 2 with the powers and duties set forth in that article and in section 501. The county commissioners must act as a board and not on an individual basis in exercising this authority. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §3 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A3,C8,10 (AMD).

§103. County office hours

The county commissioners may establish reasonable office hours for offices in the county buildings. County offices, in the discretion of the county commissioners, may be closed in part or in whole on Saturdays. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. County offices of Androscoggin County.
[PL 2017, c. 212, §1 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 212, §1 (AMD).

§104. Execution of process

Sheriffs and their deputies shall execute all legal processes directed to them by the commissioners. A civil deputy, as defined in section 351, subsection 5, shall serve civil process as directed by the sheriff. [PL 2019, c. 147, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 332, §3 (AMD). PL 2019, c. 147, §1 (AMD).

§105. Services in condemnation cases

The county commissioners shall charge $3 a day and actual traveling expenses for their services in the assessment of damages for land or easement sought to be taken or acquired by private corporations. They must certify these charges and expenses in a bill of items to the district attorney. The district attorney shall collect these sums from the party seeking to exercise the right of eminent domain and immediately pay those sums to the county treasurer. The county treasurer shall pay the actual traveling expenses to the commissioners when they are collected by the district attorney. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§106. Warrants of distress; actions

Warrants of distress on judgments legally rendered by the county commissioners may be originally issued within 2 years after judgment and made returnable to the clerk's office within 90 days from their date. New warrants may be issued within 2 years from the return day of the last preceding warrant for any sums remaining unpaid. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Warrants against municipalities. No warrant may be originally issued against a municipality until 20 days after the county clerk transmits a certificate of rendition of the judgment to the assessors of that municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Interest. Interest on the damages shall be included and collected by warrants as in executions.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Civil action. A party, for whose benefit a judgment is rendered by the county commissioners, may recover the amount in a civil action founded on that judgment.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§107. Contracts with municipalities

In addition to any service authorized by or required of counties in this Title, the county commissioners of each county may develop and contract to provide any service that a municipality may perform. The county commissioners may develop such a service prior to executing a contract with a municipality but, unless otherwise provided for in this Title, may deliver the service only upon a contract with one or more municipalities or others as described in subsection 4. The county commissioners may contract with municipalities, other political subdivisions of the State, regional planning councils, councils of government, quasi-municipal corporations, any agency or instrumentality of the State or private enterprises to enable the county to perform or to assist the county in the performance of all or part of the services contracted for by a municipality. [PL 1997, c. 785, §1 (AMD).]

1. Municipal action required. The legislative body of any municipality entering into a contract under this section must take appropriate action by ordinance, resolution or other action pursuant to law before the contract takes effect.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Contents of contract. Any contract with a municipality must specify the following:

A. Its duration; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Its purpose; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The manner and amount of financing for the contracted services and maintaining a budget; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The scope and nature of the services to be performed by the county; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The manner of administering the performance of the contract and the methods and extent of municipal control of that administration; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The manner of acquiring, holding and disposing of real and personal property acquired or used in performing the contract; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Any limitations on the county commissioners' power to contract with other political subdivisions, quasi-municipal corporations, agencies, instrumentalities or enterprises to perform the services specified in the municipal-county contract, including the duties and activities that may be contracted for by the county; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. The method of partial or complete termination of the contract and the obligations and responsibilities of each party on termination; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Any other necessary and proper matters. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Filing. A copy of the contract shall be filed with the clerk of each municipality that is a party to the contract and in the office of the county commissioners.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Municipalities and others served. The county may provide services to municipalities and other public and private entities in the county or another county. Unless otherwise provided for in this Title, a county may not require municipalities or other entities to subscribe to, contract for or participate in any service under this section.

[PL 1997, c. 785, §1 (NEW).]

5. Fees. Except as provided in subsection 6, the cost of developing and providing the service must be borne by those municipalities or other public or private entities using the service or by other means, but may not in any way be borne by the tax for which municipalities are assessed pursuant to section 706.

[PL 2007, c. 105, §1 (AMD).]

6. Offshore island tax assessment credit. For the purpose of allowing an offshore island municipality not connected to the mainland by a bridge to contract independently with the county for rural patrol services, the county may credit the qualifying municipality for a portion of the county assessment that would otherwise have been used to provide rural patrol services to the municipality if

it were on the mainland. For any such agreement that is entered into, the assessment credit must be annually negotiated by the qualifying municipality and the county commissioners.
[PL 2007, c. 105, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 785, §1 (AMD). PL 2007, c. 105, §§1, 2 (AMD).

§108. Charges and rents

1. Publication charges. The county commissioners shall set the amount to be charged by the register of probate for the publication of notices required by law. The amount set may not be less than the county's actual cost of providing the publication service, including the actual cost of publication.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Rent for county housing. The county commissioners shall set the amount of rent to be charged the sheriff or jailer occupying the house or apartment connected with the county jail. The amount of rent must be reasonable, but may not be less than the actual cost of operating and maintaining the house or apartment, including the cost of any fuel and electricity supplied by the county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 6

BUILDINGS AND PROPERTY

§121. County buildings and land; records; parking areas

1. Buildings. The county commissioners, in the county seat of their county, may provide a jail and shall keep it in proper repair. The county commissioners, in the county seat of their county, shall provide and keep in repair:

A. Courthouses pursuant to Title 4, section 115, with a suitable room in each for the county law library; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Fireproof buildings of brick or stone or other fire-resistant material, with separate fireproof rooms and suitable alcoves, cases or boxes for each office, for the safekeeping of records and papers belonging to the offices of:

(1) The register of deeds;

(2) The register of probate;

(3) The register of insolvency; and

(4) The clerk of courts.

A registry that has permanent records located off-site is exempt from this paragraph if all permanent records, either in their original state or on archival-quality microfilm, that are stored off-site are in a secure fire-resistant facility with temperature and humidity controls suitable for long-term preservation, those records temporarily retained at the registry for copying are stored in fire-

resistant containers and the registry building meets applicable fire and life safety codes; and [PL 2007, c. 151, §1 (AMD).]

C. Any other necessary buildings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2007, c. 151, §1 (AMD).]

2. Acquiring land. The county commissioners may acquire land by purchase or by condemnation proceedings for the enlargement of the grounds around county buildings. These condemnation proceedings must be in conformity with Title 23, sections 2051 to 2058.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Files and records. If, in the judgment of the county commissioners, public convenience so requires, they, at the county's expense, may cause the files and records of the probate and other county courts to be rearranged, indexed and docketed, the dockets which are worn or defaced to be renewed and the indexes to be consolidated under the direction of the respective registers and clerks of courts.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Parking areas. The county commissioners may lay out parking areas on county lands near county buildings and may enact ordinances for the reasonable use of those areas and enforce them by suitable penalties. Any violation of these ordinances is a civil violation.

The county commissioners may authorize a sheriff's deputy, certified by the Maine Criminal Justice Academy under Title 25, section 2803-A, subsection 8, to represent the county in District Court in the prosecution of alleged violations of unpaid penalties pursuant to an ordinance enacted under this subsection. The county commissioners may delegate to the county's sheriff their power under this subsection to authorize sheriff's deputies to represent the county.

County public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter 5.

[PL 2007, c. 41, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A4,C8,10 (AMD). PL 1991, c. 733, §10 (AMD). PL 2007, c. 41, §1 (AMD). PL 2007, c. 151, §1 (AMD).

§122. Location of county buildings; referendum required

The county commissioners may not remove a county building or erect a new one outside of the county seat, without first notifying the officers of each municipality in the county of their intentions and of the place where they propose to locate it. The municipal officers shall present that proposal to the municipality at its next annual meeting or election for choosing state or municipal officers and receive, sort and count the votes for and against the proposal. They and the clerks shall certify and return the votes to the county clerk. The commissioners shall examine the votes and act according to the decision of a majority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§123. Inventory of property

By January 1st of each year, the county commissioners of each county shall make or require an inventory to be made of all property belonging to the county. Copies of the inventory shall be filed in the county commissioners' office by January 1st of each year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§124. Bids, awards and contracts

Any contract for construction, renovation or improvement of county buildings or facilities involving a total cost of $2,500 or more must be awarded by a system of competitive bidding. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Except for purchases through the State, the county commissioners shall make all purchases over $2,500 of services, supplies, materials and equipment needed by the county, or any department or agency of the county, by competitive bidding. Title 5, chapter 155, subchapter I-A governs these purchases as far as applicable. Title 5, section 1825-B, subsection 2, paragraph A governs purchases through the State. [PL 1999, c. 14, §1 (AMD).]

The procurement of goods or services pursuant to this section that involves the expenditure of $10,000 or less may be accepted by oral proposal or bids. [PL 2001, c. 349, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 785, §4 (AMD). PL 1999, c. 14, §1 (AMD). PL 2001, c. 349, §3 (AMD).

§125. Economic and community development

1. Budget authority. Subject to the provisions of chapter 3, subchapter 1, the county commissioners in each county have the power to raise, appropriate, borrow and expend money for the purposes of county economic and community development, subject to the following provisions and limitations.

A. As used in this section, "county economic and community development" means assisting or encouraging the creation or preservation of new or existing employment opportunities for residents of a county, or any of its municipalities, through one or more of the following activities:

(1) Development of new sites for the physical location, settlement or resettlement of new or expanded manufacturing, fishing, commercial or other business enterprises to be located within the county, including surveying, payment of related costs for surveying, land acquisition, land use and environmental permitting, engineering, legal services and infrastructure development;

(2) Constructing or financing the development of new community industrial buildings, as defined in Title 5, section 13120-B, to be located within the county;

(3) Redevelopment of existing structures located within the county for commercial, industrial or mixed use;

(4) Construction, financing or operating assistance to necessary publicly owned transportation facilities, including facilities for passenger and cargo transportation;

(5) Provision of local matching funds for any state or federal transportation project, community development grant or rural development grant to the county or any of its municipalities, intended to achieve purposes substantially similar to those listed in subparagraphs (1) to (4);

(6) Financial participation in any county economic and community development project organized or funded on a regional basis by 2 or more participating counties. For this purpose, the county commissioners may provide assistance to a regional project to be located in whole or in part outside of that county only upon a finding by the commissioners that the project will confer a substantial economic benefit on the county providing the assistance;

(7) Funding the annual salary and operating expenses of a county economic development officer, development agency or development office subject to approval by a majority vote of the county budget committee or county advisory budget committee; and

(8) Necessary contractual services for any of the purposes stated in this paragraph. [PL 2007, c. 321, §1 (AMD).]

B. All borrowing by the county commissioners for the purposes of this section is subject to the following limitations.

(1) All bonds issued by the county commissioners for the purposes of this section must be approved by a majority vote of the county budget committee or county advisory budget committee. All bonds must be approved prior to issuance by the voters of the county by referendum vote in accordance with section 938, except that a referendum for this purpose may be conducted at any regular or special county election at which the total number of votes cast for and against the proposed bond issue is equal to at least 50% of the total number of votes cast in the county for all gubernatorial candidates in the most recent gubernatorial election.

(2) The aggregate unpaid principal amount of all bonds issued under this section may not exceed 2% of the most recent taxable valuation of the county, as certified by the State Tax Assessor pursuant to Title 36, section 381, adjusted to 100%.

(3) A county may not incur debt or issue bonds under this section if such debt or bonds, in combination with other county debt then outstanding, would cause the county to exceed limitations on total county debt otherwise provided by law.

(4) All bonds issued under this section must be for capital project costs only and may not be used to fund the annual operating or program expenses of any agency, facility, program or office. The commissioners shall deposit the proceeds of any bond issued under this section to a capital project account for the project concerned, established in accordance with section 921. Bond proceeds deposited to a capital project account may be used only for purposes of financing or completing the project concerned and for no other purposes. Any funds remaining in the capital project account upon completion or termination of the project concerned must be used by the commissioners to prepay any debt incurred by the county for that project. If the terms of a particular bond issued under this section prohibit prepayment of the bond, any funds remaining in the capital project account upon completion or termination of the project concerned may be transferred to another capital project account or used to retire other county debt. [PL 2007, c. 321, §1 (AMD).]

[PL 2007, c. 321, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 179, §1 (NEW). PL 2007, c. 321, §1 (AMD).

SUBCHAPTER 3

COUNTY TREASURERS

ARTICLE 1

ELECTION AND TENURE

§151. Election; vacancy

Except as provided in section 156, the voters of each county shall elect a county treasurer. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Qualifications. The county treasurer must be a resident of the county. Neither the Attorney General, district attorney, clerk of courts, sheriff of the county nor any deputy sheriff may be county treasurer.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Term. The county treasurer shall hold office for 4 years from the first day of January following the election and until another is chosen and qualified in the county treasurer's place.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Vacancy. If a person chosen treasurer as provided in subsection 1 declines to accept or a vacancy occurs by reason of death, resignation, removal from the county, permanent incapacity or for any other reason, the Governor may appoint a suitable resident of the county to serve as treasurer. When that person has accepted the office, provided a bond and been sworn, that person is treasurer until the first day of January following the next biennial election, at which election a treasurer must be chosen for the remainder of the term, if any; but, in any event, that person holds office until another is chosen and qualified.

A. In the case of a vacancy in the term of a treasurer who was nominated by primary election before the general election, the treasurer appointed by the Governor must be enrolled in the same political party as the treasurer whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made. [PL 1995, c. 245, §4 (NEW).]
[PL 1995, c. 683, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 245, §4 (AMD). PL 1995, c. 683, §5 (AMD).

§152. Conduct of election; notice to county commissioners

The meetings for the election of treasurers shall be conducted and returns made as provided in Title 33, section 602. The Governor shall immediately notify the county commissioners of the county where the person resides of the election. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§153. Bond required

The person elected under section 152 and accepting the office of county treasurer shall give bond to the county for the faithful discharge of duties in the sum ordered by the commissioners and with such sureties as they approve in writing on the bond. Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in the sum ordered by the commissioners is deemed to comply with the requirements of this section. [PL 1999, c. 22, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 22, §1 (AMD).

§154. Salaries

County treasurers shall receive annual salaries as set forth in section 2. The deputy treasurer shall receive an annual salary as established by the treasurer and approved by the county commissioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§155. Androscoggin County treasurer to be full time

The office of treasurer of Androscoggin County is a full-time office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§156. Creation of position of appointed county treasurer

1. County commissioners' decision. Notwithstanding sections 151 and 152, the county commissioners may decide to abolish the position of elected county treasurer and replace it with an appointed county treasurer. This decision is not effective until approved by the voters of the county under subsection 3.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Petition by voters. On the written petition of a number of voters equal to at least 10% of the number of votes cast in the county at the last gubernatorial election, the county commissioners, by order, shall provide for the abolition of the position of elected county treasurer and its replacement with an appointed county treasurer in the form and manner provided in this section.

A. The petition procedure of section 1321, subsection 3, shall be used in this alternative method except that the legend at the top of each petition form shall read as follows:

> "County of ** ..... **
>
> Each of the undersigned voters respectively requests the county commissioners to abolish the position of elected county treasurer and replace it with a county treasurer appointed by the county commissioners." [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The procedure after the petition is filed is the same as that under section 1321, subsection 4. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, Pt. 2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Election procedure. Within 30 days after a decision under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 2, paragraph B, the county commissioners, by order, shall submit the question of the abolition of the position of elected county treasurer and its replacement with an appointed county treasurer to the voters of the county at the next regular or special statewide election. The question to be submitted to the voters shall be in substance as follows:

> "Shall the position of elected county treasurer be abolished and replaced with a treasurer appointed by the county commissioners?"

If a majority of those voting on this question vote in the affirmative, the position of elected county treasurer shall be abolished after the term of the current elected county treasurer expires and the county commissioners shall appoint a treasurer under subsection 4.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Term; compensation; qualifications. Upon abolition of the position of elected county treasurer under this section, the county commissioners shall appoint a treasurer to serve at their will and, notwithstanding section 154, with the compensation they set. The treasurer must be qualified in matters of business administration and finance. The appointed treasurer has all authority granted to treasurers under this subchapter and is subject to all the requirements of this subchapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 2

DEPUTIES

§161. Deputy treasurers; duties

Each county treasurer may appoint a deputy treasurer for that treasurer's county, subject to the requirements of section 501. The deputy treasurer shall assist the treasurer in performing the duties of the treasurer's office. The deputy treasurer shall give bond to the county for the faithful discharge of duties in the sum ordered by the county commissioners and with such sureties as they approve in writing on the bond, the premium of the bond to be met by the county. The deputy treasurer shall act as treasurer in the event of a vacancy until a treasurer is chosen and qualified under section 151. Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in the sum ordered by the commissioners is deemed to comply with the requirements of this section. [PL 1999, c. 22, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 22, §2 (AMD).

§162. Provisional treasurer

If the offices of county treasurer and deputy treasurer are both vacant, the county commissioners shall appoint a provisional treasurer who shall serve until a treasurer is chosen and qualified under section 151. The provisional treasurer has all the authority granted to treasurers under this subchapter and is subject to all the requirements of this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 3

DUTIES GENERALLY

§171. Deposit or investment of county funds

The treasurer, with the approval of the county commissioners, may deposit the money received for the use of the county in any of the banking institutions or trust companies or mutual savings banks organized under the laws of this State or in any national bank or banks located in the State. When, in the treasurer's judgment, there is money in the treasury that is not needed to meet current obligations, the treasurer, with the advice and consent of the county commissioners, may invest any amount considered advisable in bonds, notes, certificates of indebtedness or other obligations of the United States which mature within one year from the date of investment or shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. [PL 1993, c. 651, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 651, §3 (AMD).

§172. Receipt of costs in favor of State

Costs in all civil actions in the name of the State, paid before execution issues, shall be paid to the clerk of the court where the action is pending. The clerk shall pay these costs, without deduction, to the county treasurer. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§173. Payments out of treasury

1. Payment on written order of commissioners. The county treasurer shall apply all money received for the use of the county toward defraying its expenses, as the county commissioners direct by written order.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Itemization required; public record. The treasurer may not pay out any funds for an account or claim against the county unless the account or claim is itemized and declared to be a public record. Notwithstanding Title 17-A, section 4-A, any violation of this subsection is a Class E crime, punishable by a fine of not more than $300 or by imprisonment for not more than 30 days, or both.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§174. Enforcing payment of taxes; collection of accounts due counties

1. Enforcing payment of taxes. The county treasurer may enforce the payment of taxes in the manner prescribed for the Treasurer of State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Charging off accounts. The county treasurer may charge off the county's books of account, in whole or in part, any accounts receivable, including taxes, that the county commissioners certify as impracticable of realization.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 4

RECORDS AND ACCOUNTS

§181. Method of accounting; report to commissioners

The county treasurer shall keep the books and accounts on forms and in the manner approved by the Office of the State Auditor. The treasurer shall report all county receipts and payments to the commissioners of the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV).

§182. Accounts to commissioners

Each county treasurer shall provide the commissioners of the county with the following. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Annual accounting of county books. The county treasurer shall prepare and deliver the annual account as treasurer to the county clerk. This account shall be enclosed with the estimates for county taxes made by the county commissioners and sent to the Secretary of State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Account of money or effects. Every treasurer holding money or effects belonging to the county, annually and more often if required, shall provide an account of the money or effects to the county commissioners for adjustment.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Account of federal money for use of jails. The county treasurer shall receive, for the county, all money paid by the United States for the use and keeping of county jails and account for that money according to law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§183. Annual statement of financial standing

At the end of each year, in cooperation with the commissioners, each treasurer shall make a statement of the financial condition of the county and shall publish in pamphlet form a reasonable number of copies for distribution among its citizens. This statement must show in detail all money received into and paid out of the county treasury, including a statement in detail of: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Unclaimed inheritances. All sums received under Title 18-C, section 3-914;
[PL 2017, c. 402, Pt. C, §85 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Division among accounts. The division of money among general, special and capital reserve accounts and the amounts remaining in each account;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Federal funds. All federal funds received; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Facts and statistics. Other facts and statistics necessary to exhibit the true state of the county's finances, including the number of weeks' board and expense of clothing furnished prisoners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 402, Pt. C, §85 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

SUBCHAPTER 4

CLERKS

§201. Clerical help

In all county offices, there is allowed for clerk hire the amount authorized by the county commissioners. The county commissioners shall determine the salary of all clerks after receiving a

recommendation from the county official under whom the clerk is employed. The county treasurer may pay weekly or biweekly, at the discretion of the commissioners, to the clerks employed by the county the wages to which they are entitled. The county commissioners shall certify the names of the clerks to the county treasurer. The county commissioners may provide for a county pay scale, vacations and sick leave for clerical help. [PL 2005, c. 79, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A5,C8,C10 (AMD). PL 2005, c. 79, §2 (AMD).

SUBCHAPTER 5

DISTRICT ATTORNEYS

ARTICLE 1

ELECTION AND TENURE

§251. Election; qualifications

District attorneys shall be elected as provided in this section. They shall enter office on the first day of January following their election. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Election. The district attorneys shall be elected on the Tuesday following the first Monday of November in every 4th year, by the voters of the respective prosecutorial districts. The votes shall be received, sorted, counted and declared in the same manner as votes for Representatives. The names of the persons voted for, the number of votes for each and the whole number of ballots received shall be recorded by the clerk of each municipality within the prosecutorial district. The clerk shall send true copies of these names and totals, sealed and attested as returns of votes for Senators, to the Secretary of State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Qualifications. Only an attorney who is a member in good standing of the bar of the State and who resides in the prosecutorial district may be elected or appointed district attorney. Removal from the prosecutorial district or disbarment or suspension from the practice of law vacates the office. For purposes of this subsection, a person is a "member in good standing of the bar of the State" if that person is admitted to the practice of law in this State, is presently registered with the Board of Overseers of the Bar as an active practitioner and is not currently disbarred or suspended from practice in this State pursuant to Title 4, chapter 17, subchapter 2 or the Maine Bar Rules.
[PL 2019, c. 85, §1 (AMD).]

3. Term of office. The term of office for a district attorney is 4 years, except when one is elected to fill out an unexpired term, in which case it is for the remainder of the unexpired term.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 85, §1 (AMD).

§252. Vacancies in office

A vacancy in the office of district attorney, because of expiration of the term of office, death, permanent incapacity, removal from office under section 257, removal from the prosecutorial district, or otherwise, shall be filled under this section, except as provided in section 253. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Vacancies caused by expiration of the term. Vacancies occurring by expiration of the term of office shall be filled by election in that year as provided in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Vacancies caused by other reasons. When no person is elected or a vacancy happens in the office of district attorney, other than as provided in subsection 1, the Governor shall appoint a competent attorney, a resident of the prosecutorial district affected, to serve as a substitute district attorney until the first day of January following the next biennial election. At that election, a person shall be elected to the office of district attorney to serve for the remainder of the unexpired term. When the office of district attorney becomes vacant after the first day of October in the 2nd year after the election of a district attorney under section 251, a new election shall not be held to fill the vacancy, but the substitute district attorney shall serve for the remainder of the unexpired term.

A. In the case of a vacancy in the term of a district attorney who was nominated by primary election before the general election, the district attorney appointed by the Governor must be enrolled in the same political party as the district attorney whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county committee or committees of the political party from which the appointment is to be made. [PL 1995, c. 245, §5 (AMD).]

[PL 1995, c. 245, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 245, §5 (AMD).

§253. Military or naval service; substitutes

Whenever a district attorney during the district attorney's term of office in time of war, contemplated war or emergency, enlists, enrolls, is called or drafted into the military service of the United States, that district attorney is not deemed to have thereby resigned from or abandoned the office; nor is the district attorney removable from that office during military service except that the term of office may not be held to have been lengthened because of this section. From the time of induction into service, the district attorney is regarded as on leave of absence without pay from the office and the Governor shall appoint a competent attorney, a resident of the same prosecutorial district, to fill the office while the district attorney is in the federal service, but not for a longer period than the remaining portion of the district attorney's term. During the period of military or naval service, the Treasurer of State shall pay to the substitute attorney a salary at the same rate as the rate of pay of the district attorney and amounts so paid shall be deducted from the salary of the district attorney. The attorney so appointed to fill the temporary vacancy has the title of "substitute district attorney" and possesses all the rights and powers and is subject to all the duties and obligations of the district attorney.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§254. Prosecutorial districts

1. Prosecutorial District Number 1. There shall be one district attorney for York County, which shall be known as "Prosecutorial District Number 1." The district attorney shall be elected by the voters of York County in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Prosecutorial District Number 2. There shall be one district attorney for Cumberland County, which shall be known as "Prosecutorial District Number 2." The district attorney shall be elected by the voters of Cumberland County in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Prosecutorial District Number 3. There shall be one district attorney for Oxford, Franklin and Androscoggin Counties, which shall be known as "Prosecutorial District Number 3." The district attorney shall be elected by the voters of Oxford, Franklin and Androscoggin Counties in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Prosecutorial District Number 4. There shall be one district attorney for Kennebec and Somerset Counties, which shall be known as "Prosecutorial District Number 4." The district attorney shall be elected by the voters of Kennebec and Somerset Counties in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Prosecutorial District Number 5. There shall be one district attorney for Penobscot and Piscataquis Counties, which shall be known as "Prosecutorial District Number 5." The district attorney shall be elected by the voters of Penobscot and Piscataquis Counties in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Prosecutorial District Number 6. There shall be one district attorney for Sagadahoc, Lincoln, Knox and Waldo Counties, which shall be known as "Prosecutorial District Number 6." The district attorney shall be elected by the voters of Sagadahoc, Lincoln, Knox and Waldo Counties in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Prosecutorial District Number 7. There shall be one district attorney for Hancock and Washington Counties, which shall be known as "Prosecutorial District Number 7." The district attorney shall be elected by the voters of Hancock and Washington Counties in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Prosecutorial District Number 8. There shall be one district attorney for Aroostook County, which shall be known as "Prosecutorial District Number 8." The district attorney shall be elected by the voters of Aroostook County in the manner set forth in section 251.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§255. District attorney salaries

1. Annual salary. The District Attorney for each of the prosecutorial districts shall be within salary range 90 with the step within that salary range to be determined by the Attorney General, subject to the approval of the Governor.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. O, §18 (RPR).]

2. Biweekly payments. The district attorneys and their assistants shall receive their annual salaries from the State Treasury in biweekly payments on a date to be determined by the State Controller and in a sum which, in a year aggregate, will most nearly equal the annual salary.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Additional sums.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. O, §19 (RP).]

4. Prior service.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. O, §19 (RPR).]

5. Limitation. The salary of any district attorney may not exceed that of a Justice of the Superior Court.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 501, §§O18,19 (AMD).

§256. Full-time district attorneys

All district attorneys and assistant district attorneys designated as full-time assistants are full-time officers of the State. During their terms of office, they may not: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Appear as counsel. Appear as counsel in any civil or criminal case or controversy before the Supreme Judicial Court, Superior Courts or District Courts of the State or comparable courts in any other state or before the United States District Court or at any administrative hearing held by any state or United States agency other than in their capacity as district attorney; or
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Private practice of law. Engage in the private practice of law nor be a partner or associate of any person engaged in the private practice of law nor be a member or employee of a professional association engaged in the private practice of law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§257. Removal from office

The Justices of the Supreme Judicial Court have jurisdiction to remove any district attorney from office, by majority vote of the justices sitting, upon complaint filed with the court by the Attorney General, and after notice and hearing, as provided in this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Expedited proceeding. Proceedings under this section shall be expedited insofar as practicable and shall take precedence over all other matters except requests for opinions of the justices and petitions for writs of habeas corpus.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Complaint; application of court rules. The complaint in a proceeding under this section shall contain a short and plain statement of facts showing that grounds for removal exist. The proceedings shall be conducted in accordance with the Maine Rules of Civil Procedure and the Maine Rules of Evidence, except that:

A. Discovery procedures may be used only by order of the court on motion for cause shown; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The court may modify any rule or restrict its application as is necessary or appropriate to expedite the proceeding and ensure that the court is as fully informed of the relevant and material facts as practicable. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Removal. If a majority of the justices sitting finds, by clear and convincing evidence, that the respondent district attorney has violated a statute or is not performing the duties of office faithfully and efficiently, and finds in consequence that removal from office is necessary in the public interest, judgment to that effect shall be entered, and the respondent shall thereby be removed from office as district attorney.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 2

ASSISTANTS AND SUBSTITUTES

§271. Appointment of temporary substitutes

When the district attorney does not attend a criminal session or the office is vacant, the court may appoint an attorney to perform duties during the session and allow a reasonable compensation to be paid from the county treasury, in the county where the appointment is made. The court shall notify the Attorney General who shall deduct that amount from the district attorney's salary and forward it to the

county treasurer. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §6 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A6,C8,C10 (AMD).

§272. Assistant district attorneys

1. Appointment. Each district attorney shall appoint assistant district attorneys, one or more of whom may be full-time, to serve at the district attorney's will. The district attorney shall designate whether each assistant district attorney will serve full-time or part-time when appointed.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties. The assistants shall take the oath prescribed for district attorneys and assist the district attorney in the ordinary duties of that office, in the drawing of indictments, in the hearing of complaints before the grand juries and in the preparation and trial of criminal causes. They, when directed by the district attorney, shall act as counsel for the State in the trial of complaints before Judges of the District Court and Justices of the Superior Court and in the prosecution of appeals before the Supreme Judicial Court.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Compensation. The compensation of deputy and assistant district attorneys shall be fixed by the district attorney, subject to the approval of the Attorney General and the Governor. For purposes of compensation and benefits, deputy and assistant district attorneys shall be treated comparably to assistant attorneys general.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. O, §20 (RPR).]

4. Deputy district attorney. Each district attorney may designate one full-time assistant district attorney or, if there is no full-time assistant district attorney, one part-time assistant district attorney to be the deputy district attorney. In the absence of the district attorney, the deputy shall act in the district attorney's place and has the authority, duties and responsibilities of the district attorney.
[PL 1995, c. 39, §1 (AMD).]

5. Staff. Each district attorney shall be allowed sufficient sums to ensure an adequate staff of assistants to screen, process and investigate complaints, to assist law enforcement agencies, to conduct trials in the District and Superior Courts, to prosecute appeals in the Supreme Judicial Court and to carry out all other duties and responsibilities.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Allowance for compensation.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §7 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. O, §21 (RP); PL 1989, c. 878, Pt. D, §10 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A7,C8,10 (AMD). PL 1989, c. 501, §§O20,21 (AMD). PL 1989, c. 878, §D10 (AMD). PL 1995, c. 39, §1 (AMD).

ARTICLE 3

DUTIES

§281. District attorney operations

1. Expenses allowed. County commissioners shall allow to the district attorney serving the county sufficient funds for all office expense, clerk hire and travel, including, but not limited to, funds for:

A. Consultation and services of experts; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Rendition of prisoners; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Training and reference books and treatises which may aid the district attorney and staff in the prosecution of criminal matters. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Office space. The county commissioners shall also provide to the district attorney serving the county office space suitable for the performance of the duties of office, including sufficient private area for research, conferences and meetings with officers, witnesses, complainants and citizens. If office space is not available on county property, the county commissioners shall provide sufficient funds to the district attorney for the rental of suitable quarters at locations convenient to courthouses within the county.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§282. Civil proceedings

1. Representation of counties. The county commissioners shall immediately transmit to the district attorney serving the county any writs, summonses or other processes served upon the county or commissioners. The district attorney for each prosecutorial district shall appear for each county within the district for which the district attorney was elected, under the direction of the county commissioners for each county within that district, in all actions and other civil proceedings in which any county within the district is a party or is interested, or in which the official acts of the county commissioners are called in question, in all the courts of the State, and in such actions and proceedings before any other tribunal when requested by the commissioners. The district attorney shall prosecute or direct the prosecution of all such actions and proceedings. The county commissioners may employ other counsel if in their judgment the public interest so requires.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Traffic infractions. The district attorney, or someone acting under the district attorney's direction, shall prosecute all traffic infraction cases and shall be present at the trial of any such case.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Civil actions; State as party. The district attorney shall prosecute to final judgment and execution all civil cases in which the State is a party in any county within the district attorney's prosecutorial district and shall institute proceedings against sureties on any recognizance upon which the principal and sureties have been defaulted, before the term next succeeding that at which the default was entered upon the docket of the court, unless by order in open court the presiding justice grants a delay in proceedings against the sureties.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3-A. Civil violations. Unless otherwise provided by law, the district attorney shall prosecute all Title 12 civil violations relating to marine resources laws or inland fisheries and wildlife laws in any county within the district attorney's prosecutorial district and shall be present at the trial of any such case.
[PL 2001, c. 421, Pt. A, §2 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

4. Compensation. For the services mentioned, the district attorney may receive no compensation other than the salary from the State, except actual expenses when performing those services. Those expenses shall be audited by the county commissioners and paid from the county treasury.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Limitation. This section does not relate to or give the district attorney control of litigation in which any county within the prosecutorial district is not financially interested although the official acts of the county commissioners may be called in question.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 421, §A2 (AMD). PL 2001, c. 421, §C1 (AFF).

§283. Criminal proceedings

The district attorney shall attend all criminal terms held in the counties within the prosecutorial district for which the district attorney was elected and act for the State in all cases in which the State or county is an interested party. Unless the district attorney makes an order of dismissal under section 284, the district attorney or someone acting under the district attorney's direction shall prosecute all criminal cases and shall be present at the trial of any such case before the District Court of any of the counties within the district. If the Attorney General is absent from a term in any of the counties, the district attorney shall perform the Attorney General's duties in state cases, in any of the counties, under directions from the Attorney General. The district attorney shall appear and act for the State with the Attorney General in the Law Court in all state cases coming into that court from any of the counties. No additional compensation may accrue to the district attorney for performing these duties. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§284. Dismissal of cases

1. Civil cases. In order to dismiss civil cases, the district attorney must sign a written order of dismissal together with a statement of the reasons for dismissal upon the back of the writ or complaint

in those cases. This order of dismissal does not take effect unless approved in writing by the justice presiding at the term when the dismissal is made.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Criminal cases. The district attorney may dismiss criminal cases in such manner and under such circumstances as the Supreme Judicial Court may provide by rule.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§285. Collection of fines and costs; examination of sheriff's bond

1. Enforce collection of fines; move examination of sheriff's bond. For counties within the district attorney's prosecutorial district, the district attorney shall:

A. Enforce the collection and payment to the county treasurers of all fines, forfeitures and costs accruing to the State and the faithful performance of their duties by sheriffs and constables and inform the court of their defaults in this respect; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Annually move the county commissioners of each of the counties within the prosecutorial district, at their respective meetings immediately following the 3rd Tuesday of June, to examine and consider the sufficiency of the bond of the sheriff for their county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Civil violation. If the district attorney neglects either of these duties, the district attorney commits a civil violation for which a forfeiture of not more than $100 may be adjudged. This forfeiture is to be recovered in a civil action in the name of the Treasurer of State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§286. Restrictions and obligations

The district attorney is under the same restrictions as to fees and the same obligations as to witnesses as imposed on the Attorney General by Title 5, sections 201 and 205. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§287. Physical examination of crime victims

1. Payment of expenses by district attorney. Except as provided in subsection 2, in all cases reported to a law enforcement officer of sexual crimes against minors or assault when serious bodily injury has been inflicted, the office of the district attorney of the county in which the alleged crime occurred shall pay the expenses of a physical examination of the victim conducted for the purpose of obtaining evidence for the prosecution. Pursuant to Title 5, section 3360-M, the Victims' Compensation Board shall pay the expenses of forensic examinations for alleged victims of gross sexual assault.
[PL 1999, c. 719, §5 (AMD); PL 1999, c. 719, §11 (AFF).]

2. Limitation. The district attorney is required to pay the expenses for the physical examination of a victim in accordance with subsection 1 only in the absence of medical insurance or other 3rd-party coverage of the expenses of examination and only from a fund or account appropriated for that purpose. The office of the district attorney is not liable for the payment of any charges, costs or fees for an examination under subsection 1 until the district attorney has received copies of all reports and records pertaining to the examination, if the copies have been requested.
[PL 1991, c. 101 (RPR).]

2-A. Drug and alcohol testing. Notwithstanding subsections 1 and 2 and Title 5, section 3360-M, the district attorney shall pay the expense of any analysis of a drug or alcohol test performed as part of a forensic examination of an alleged victim of gross sexual assault when the purpose of the analysis is to obtain evidence for the prosecution.
[PL 1999, c. 719, §6 (NEW); PL 1999, c. 719, §11 (AFF).]

3. Medical personnel not liable for furnishing reports, records or testimony. A physician, nurse, hospital, clinic or any other person, firm or corporation attending a victim under subsection 1 is not liable in damages or otherwise for providing reports or records, copies of reports or records or for their testimony relating to any examination performed under this section when those reports, records or testimony are provided to a district attorney, a law enforcement officer or a court for the purpose of prosecuting the alleged crime, whether or not the reports, records or testimony are provided with the written authorization of the victim examined under this section.
[PL 1999, c. 719, §7 (AMD); PL 1999, c. 719, §11 (AFF).]

4. Standardized kit for evidence collection in cases of gross sexual assault.

[PL 1999, c. 719, §8 (RP); PL 1999, c. 719, §11 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 101 (AMD). PL 1993, c. 27, §1 (AMD). PL 1997, c. 333, §1 (AMD). PL 1999, c. 719, §§5-8 (AMD). PL 1999, c. 719, §11 (AFF).

§288. Disclosure of minor victims of sexual offenses

The Legislature finds that publicity given to the identity of minor victims of sexual offenses causes intense shame and humiliation for which abused children are particularly ill-prepared and may cause severe and permanent emotional harm to the victim of such an offense. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Therefore district attorneys, their assistants and employees and other law enforcement officials shall refrain from any unnecessary pretrial public disclosure of information that may identify a minor victim of an offense under Title 17-A, chapter 11 or 12 or Title 17-A, section 556. [PL 2003, c. 711, Pt. C, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 711, §C2 (AMD).

§289. Investigation of child abuse cases

Unless a written agreement exists between a law enforcement agency and a district attorney concerning primary responsibility for investigating any of the following offenses, the district attorney may direct the investigation of any offense under Title 17-A, chapter 11 or 12, or Title 17-A, sections 207, 208 and 556, when a victim may not have attained the victim's 18th birthday, and may designate, by geographical boundaries or otherwise, a particular law enforcement agency to have primary responsibility for that investigation. [PL 2003, c. 711, Pt. C, §3 (AMD).]

Any case involving the sexual or physical abuse of children which is discovered by or reported to any law enforcement department or officer shall be immediately reported by that department or officer to the appropriate district attorney or assistant district attorney or, in their absence, to the Attorney General or one of the Attorney General's assistants. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 711, §C3 (AMD).

§290. Investigators; appointments and removal

The district attorney may appoint in one or more counties of the prosecutorial district, subject to the requirements of section 501, full-time or part-time investigators, whose duties are to enforce the criminal laws in the county. [PL 2001, c. 686, Pt. C, §1 (NEW).]

1. Qualifications for appointment. To be eligible for appointment, an investigator must be a law enforcement officer who has met the requirements of Title 25, section 2804-C and is certified as a full-time law enforcement officer.
[PL 2001, c. 686, Pt. C, §1 (NEW).]

2. Powers. An investigator has the statutory powers of a deputy sheriff in the county in which the investigator is appointed. An investigator's powers may include those under sections 404 and 405.
[PL 2001, c. 686, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 686, §C1 (NEW).

SUBCHAPTER 6

SHERIFFS AND OFFICERS

ARTICLE 1

GENERAL PROVISIONS

§351. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Deputy. "Deputy" means either a full-time or part-time county law enforcement officer appointed under section 381.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Full-time deputy. "Full-time deputy" means a deputy who is compensated under section 386, subsection 1, and who is employed in county law enforcement for at least 40 hours a week.
[PL 1997, c. 44, §1 (AMD).]

3. Part-time deputy. "Part-time deputy" means a deputy who is compensated under section 386, subsection 2, and who does not work more than the maximum amount allowed under that subsection in any one calendar or fiscal year while performing county law enforcement duties.
[PL 1997, c. 44, §1 (AMD).]

4. Special deputy. "Special deputy" means a person appointed under section 382 who may exercise the powers of a deputy only when a state of war or emergency exists.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Civil deputy. "Civil deputy" means a deputy who meets the requirements for a civil deputy adopted by the sheriff and has been designated by the sheriff to enforce civil laws and serve civil process.
[PL 2017, c. 332, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 44, §1 (AMD). PL 2017, c. 332, §4 (AMD).

§352. Pension for dependents

If a sheriff or deputy dies as a result of injury received in the line of duty, the spouse or, if none, the minor child or children, of the sheriff or deputy shall receive a pension equal to 1/2 of the pay of the sheriff or deputy at the time of death, but in no case may the pension be less than $1,000 annually. This pension shall be paid to the spouse until the spouse dies or remarries and to a child or children until they die or reach the age of 18 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The county commissioners of each county shall pay these pensions from county funds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§353. Officer not to act as attorney or draw papers; employee of jailer not to act as judge or attorney

An officer may not appear before any court as attorney or adviser of any party in an action or draw any writ, complaint, declaration, citation, process or plea for any other person; all such acts are void. A person employed by the keeper of a jail in any capacity may not exercise any power or duty of a judicial officer or act as attorney for any person confined in the jail; all such acts are void. Beginning April 15, 2006, if commissioned as a notary public and authorized to do so by the sheriff, an employee of a jail, other than a corrections officer or a deputy sheriff, may, without fee, exercise any power or duty of a notary public for any person confined in the jail. [PL 2013, c. 147, §45 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A8,C8,C10 (AMD). PL 2005, c. 541, §2 (AMD). PL 2005, c. 541, §3 (AFF). PL 2013, c. 147, §45 (AMD).

§354. Uniforms

1. Uniforms provided. Every county shall furnish one uniform to the sheriff and to each full-time deputy, sufficient to identify them as officers of the law. If the county commissioners approve, the county may provide more than one uniform for each. The sheriffs shall require each deputy, while engaged in the enforcement of Title 29-A, section 105 or 1760, to wear a uniform as required by this section.
[PL 1995, c. 65, Pt. A, §126 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

2. Labor disputes. No deputy or special deputy may wear or display a uniform or badge that identifies the deputy or special deputy as a public law enforcement officer at the site of a labor dispute, strike or lockout, except while on active duty in the public service and while traveling to and from public work.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 65, §A126 (AMD). PL 1995, c. 65, §§A153,C15 (AFF).

§355. Political activities

1. Sheriff. No sheriff may directly or indirectly coerce, attempt to coerce or command any county employee or deputy to pay, lend or contribute anything of value to, or to engage in any political service or activity on behalf of, a party, committee, organization, agency or person for political purposes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Full-time deputies. A full-time deputy may not hold any other elective or appointive county office or a state office.
[PL 1995, c. 18, §1 (AMD).]

3. Sheriffs and deputies. No sheriff or deputy, whether a full-time, part-time or chief deputy, may directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, contribution or political service, whether voluntary or involuntary, for any political purpose from any person, except that while off duty and not in uniform a sheriff or deputy may engage in political activities relating to nonpartisan municipal, school board or special district elections and may solicit or receive contributions or political services for the purpose of electing that sheriff or deputy to a political office.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Official duties. Official duties undertaken solely to preserve the public peace and the order and security of polling places are not political services or activities.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Rights of voting and free expression. Sheriffs or deputies retain the right to vote as they choose, to express opinions on political subjects or candidates and to attend and vote at party caucuses and conventions.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A9,C8,C10 (AMD). PL 1995, c. 18, §1 (AMD).

ARTICLE 2

ELECTION AND TENURE; BOND

§371. Election or appointment

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 156, §1 (RP). PL 1995, c. 245, §6 (AMD). PL 1995, c. 683, §6 (RP).

§371-A. Election or appointment; minimum qualifications

(REPEALED)

SECTION HISTORY

PL 1995, c. 156, §2 (NEW). PL 1995, c. 683, §7 (RP).

§371-B. Selection; qualifications

1. Manner of election or appointment. Sheriffs are elected or appointed and hold their offices according to the Constitution of Maine. Their election must be conducted and determined as is provided for county commissioners. Sheriffs take office on the first day of January following their election. [PL 1997, c. 562, Pt. D, §6 (RPR); PL 1997, c. 562, Pt. D, §11 (AFF).]

2. Filling vacancies. Vacancies in the office of sheriff caused by death, resignation, removal from the county, permanent incapacity or any other reason must be filled as provided in the Constitution of Maine. In the case of a vacancy in the term of a sheriff who was nominated by primary election before the general election the sheriff appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the sheriff whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is made. [PL 1997, c. 562, Pt. D, §6 (RPR); PL 1997, c. 562, Pt. D, §11 (AFF).]

3. Minimum qualifications for officers. A person may not be appointed to the office of sheriff, be a candidate for election to the office of sheriff or serve as sheriff of any county in the State unless the candidate meets the following qualifications:

A. The candidate swears to or affirms the Law Enforcement Code of Ethics; [PL 1997, c. 562, Pt. D, §6 (RPR); PL 1997, c. 562, Pt. D, §11 (AFF).]

B. The candidate has never been convicted of a Class C or higher crime; [PL 1997, c. 562, Pt. D, §6 (RPR); PL 1997, c. 562, Pt. D, §11 (AFF).]

C. The candidate applies to the Secretary of State for a criminal background investigation; [PL 2011, c. 342, §32 (AMD).]

D. The candidate submits written certification from the Maine Criminal Justice Academy that the candidate has:

(1) Met the basic law enforcement training standards under Title 25, section 2804-C; or

(2) Met the basic corrections training standards under Title 25, section 2804-D; and [PL 2011, c. 342, §33 (AMD).]

E. The candidate swears to or affirms that the candidate has at least 2 years of supervisory employment experience in law enforcement or corrections or a combination of both and submits the name, address and telephone number for the relevant employer or employers. [PL 2019, c. 33, §1 (AMD).]

[PL 2019, c. 33, §1 (AMD).]

4. Exception. Any person who is serving in the office of sheriff on June 26, 1997 or who served prior to that date is deemed to meet the minimum qualifications of subsection 3.

[PL 2003, c. 510, Pt. C, §11 (AMD).]

SECTION HISTORY

PL 1997, c. 37, §1 (NEW). PL 1997, c. 87, §1 (NEW). PL 1997, c. 562, §D6 (RPR). PL 1997, c. 562, §D11 (AFF). PL 1999, c. 338, §1 (AMD). PL 2003, c. 510, §C11 (AMD). PL 2011, c. 342, §§32-34 (AMD). PL 2019, c. 33, §1 (AMD).

§372. Sheriff's bond

1. Bond required. Every person elected or appointed sheriff for the Counties of York, Cumberland, Kennebec or Penobscot, before receiving that commission, must give bond to the Treasurer of State with at least 3 sufficient sureties or with the bond of a surety company authorized to do business in this State as surety in the sum of $40,000 and for any of the other counties in the sum of $25,000, conditioned for the faithful performance of the duties of the office and to answer for all neglect and misdoings of the chief deputy. Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in the sum ordered by the commissioners is deemed to comply with the requirements of this section.

[PL 1999, c. 22, §3 (AMD).]

2. Approval of bond. After executing the required bond, every sheriff shall file it in the office of the county clerk, to be presented to the county commissioners at their next meeting for approval. After the bond has been approved by the commissioners, the clerk shall record it and certify the fact of approval on the bond.

[PL 1999, c. 22, §3 (AMD).]

3. Annual examination of bonds. The county commissioners of each county, at their first meeting after the 3rd Tuesday of June, on motion of the district attorney, shall annually examine the sufficiency of the bond of the sheriff of their county and have their clerk make a record of their determination.

[PL 1999, c. 22, §3 (AMD).]

4. New bond when insufficient. If the bond of any sheriff is found to be insufficient, the clerk shall certify that fact to the sheriff within 10 days. Within 20 days after that notice is given, the sheriff must give a new bond with sufficient sureties, to be filed in the office of the county clerk and approved by the county commissioners.

[PL 1999, c. 22, §3 (AMD).]

5. Forfeiture for neglect to give bond. A sheriff forfeits $150 to the State for each month's neglect to give the security required in this section. The Attorney General shall prosecute a civil action for the Treasurer of State to recover the forfeiture. The clerk of courts of the sheriff's county shall certify the sheriff's name to the Governor and the Attorney General. Unless reasonable cause for this

neglect is shown or, within 20 days after the clerk certifies the sheriff's name, the sheriff gives or renews the security to the satisfaction of the Governor, the sheriff vacates the office.
[PL 1999, c. 22, §3 (AMD).]

6. Governor may require new bond. If the Treasurer of State certifies to the Governor that money due to the State on warrants or any other sums or balances are in a sheriff's possession and furnishes the names of the sheriff's sureties, and it appears to the Governor that the sureties are insufficient or have left the State, the Governor may require the sheriff to give a new bond with sufficient sureties within 60 days after the sheriff is notified. The new bond must be filed as required in subsections 1 and 2. If the sheriff neglects to file this new bond, the sheriff's office becomes vacant.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. New bond required on application of sureties. When a surety on the official bond of a sheriff or the surety's heirs, executors or administrators petition the county commissioners to be discharged from suretyship, the commissioners shall have an attested copy of the petition served on the sheriff and may require a new bond to be given to their satisfaction. When it is given and accepted, the surety or the surety's legal representatives are not liable for any neglect or misdoings after that time.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 22, §3 (AMD).

§373. Salaries

1. Salaries; full compensation. County sheriffs shall receive annual salaries as set forth in subsection 3. The salaries are in full compensation for:

A. Services in attendance upon the Supreme Judicial Court and upon the Superior Court; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Services as jailer, master or keeper of the jail in each county; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Receiving and committing prisoners in the jail; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The service of all criminal and civil processes; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The performance of all duties relating to the enforcement of all criminal laws. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 2011, c. 95, §1 (AMD).]

2. Expenses allowed. The county commissioners shall allow and pay from the county treasuries all actual and necessary expenses for travel and hotel bills within their respective counties and necessary incidental expenses as are just and proper, incurred in the performance of the sheriffs' public duties, including all necessary expense for aid in keeping the jails.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Salary; procedures. The board of county commissioners of each county, through the county budget process, shall set the base salary for the county sheriff.

A. The salary for the county sheriff must be set prior to the election of a new county sheriff by the board of county commissioners by final budget approval prior to the first date that applicants may file with the Secretary of State for the office of county sheriff. [PL 2011, c. 95, §2 (NEW).]

B. The salary of the county sheriff may not be reduced during the sheriff's term other than upon complaint, and after due notice and hearing, of malfeasance, misfeasance, neglect or gross negligence or failure to maintain certification with the Maine Criminal Justice Academy by the board of county commissioners to the Office of the Governor. [PL 2015, c. 41, §1 (AMD).]

[PL 2015, c. 41, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2011, c. 95, §§1, 2 (AMD). PL 2015, c. 41, §1 (AMD).

§374. County sheriff to be full time

The office of county sheriff is a full-time office in each county. The duties of the county sheriff include law enforcement, jail administration and court services, with irregular hours, requiring a nonstandard work schedule. [PL 2011, c. 95, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2011, c. 95, §3 (AMD).

ARTICLE 3

DEPUTIES

§381. Deputies; appointments and removal

The sheriff may appoint, subject to the requirements of section 501, full-time or part-time deputies, whose special duties are to enforce the criminal laws in the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Qualifications for appointment. To be eligible for appointment, a deputy must have:

A. Actual experience in law enforcement duties; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Training in criminal justice or law enforcement from an accredited college or university or from the Maine Criminal Justice Academy; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Knowledge of the duties, activities and responsibilities of a deputy gained from other experience or training. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Training at Maine Criminal Justice Academy required. Appointed deputies are subject to the training requirements of Title 25, sections 2804-B to 2804-F.

[PL 1991, c. 824, Pt. A, §61 (AMD).]

3. Tenure of office. Deputies must be originally appointed for a probationary period consistent with the provisions of section 2701 governing municipal employment and thereafter may be appointed or reappointed for a term of 3 years.

A. The failure of a sheriff to reappoint a deputy, except for appointment at the end of the probationary period, is subject to the procedures and standards for dismissal of an applicable collective bargaining agreement. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2001, c. 349, §4 (AMD).]

4. Sheriff to furnish names. From time to time, each sheriff shall furnish to the county commissioners of that county the names of the deputies appointed, with the residence and post office address of each.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Residence. A full-time deputy may reside outside the county during the term of appointment only with the permission of the sheriff and county commissioners.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Exceptions for civil deputies. The provisions of subsections 1 to 5 do not apply to civil deputies. The sheriff may designate one or more persons to serve as civil deputies to enforce civil laws and serve civil process in accordance with the state rules of court. A civil deputy holds no other law enforcement powers. A civil deputy is compensated under section 386, subsection 4. The sheriff may adopt rules, procedures and requirements related to the qualifications and training of a civil deputy and the service of civil process.

[PL 2017, c. 332, §5 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 824, §A61 (AMD). PL 2001, c. 349, §4 (AMD). PL 2017, c. 332, §5 (AMD).

§382. Special deputies; duties

1. Appointment. Sheriffs may at any time appoint and train as special deputies citizens more than 18 years of age. The appointment must be in writing, signed by the sheriff, and include the residence and post office address of each special deputy. The appointment must be recorded in the office of the county commissioners in the county and is not valid until recorded.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Active duty. The sheriff or the sheriffs' chief deputy may order special deputies to active duty only when:

A. A state of war exists; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The Governor proclaims an emergency under Title 37-B, chapter 13; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The Director of the Maine Emergency Management Agency declares that a state of emergency is imminent. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Powers; liability. Special deputies shall exercise all the powers of deputy sheriffs appointed under the general law, except the service of civil process, only for the duration of the emergency that exists or which has been proclaimed or during the time for which they have been ordered to active duty. Special deputies are personally responsible for any unreasonable, improper or illegal acts committed by them in the performance of their duties, but the sheriffs are not liable upon their bonds or otherwise for any neglect or misdoings of these deputies.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§383. Chief deputy

1. Appointment. As soon as possible after taking office, the sheriff in each county shall appoint a chief deputy to serve under the sheriff. The appointment must be in writing, signed by the sheriff and recorded in the office of the county commissioners in the county. The appointment is not valid until recorded, except by operation of law or by vacancy in the office of sheriff.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Tenure. The chief deputy serves at the will of the sheriff.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Powers and duties. The chief deputy has all the powers and duties of a deputy sheriff and is subject to the direction of the sheriff in the administration of that office.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Sheriff responsible for misconduct. The sheriff is responsible for the official misconduct or neglect of the chief deputy.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Minimum qualifications. The chief deputy must meet the minimum qualifications for sheriffs pursuant to section 371-B, subsection 3.

[PL 2011, c. 15, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2011, c. 15, §1 (AMD).

§384. Chief deputy, deputies, bond; approval and filing

Before receiving a commission, every person appointed chief deputy under section 383, or appointed a deputy under section 381, shall give bond to the Treasurer of State with at least 3 sufficient sureties, or with the bond of a surety company authorized to do business in this State as surety, in the sum required by the county commissioners of that county, conditioned for the faithful performance of the duties of that office. The bond of the chief deputy must be filed and approved in the same manner

as is required for the bond of a sheriff under section 372, subsection 2, and all of that subsection applies to these bonds. The county may furnish a bond for all full-time and part-time deputies that complies with this section. That bond must be recorded in the county records. Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in a sum equal to or exceeding the sum required by this section is deemed to comply with the requirements of this section. [PL 1999, c. 22, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 748 (AMD). PL 1999, c. 22, §4 (AMD).

§385. Vacancy in sheriff's office

1. Chief deputy's powers. If the office of sheriff becomes vacant because of death, resignation or otherwise, the chief deputy shall have and exercise the same rights and powers and be subject to the same duties and liabilities as a sheriff until the vacancy in the office of sheriff is filled as provided in the Constitution of Maine and the new sheriff has qualified under law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Other deputies. During the vacancy in the office of sheriff, all other deputies of the sheriff vacating the office shall continue to have and exercise the powers and duties of deputy sheriffs and are subject to the direction and control of the chief deputy in the same manner and to the same extent as if the chief deputy were sheriff.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§386. Compensation of deputies

1. Full-time deputies. The county commissioners of each county in which deputies are employed shall set the rate of compensation for deputies employed in the county commissioners' county. The county treasurers shall pay the compensation, together with those incidental expenses that are necessary for the proper enforcement of the laws.

All fees received by full-time deputies for the service of civil process while on duty are deemed fees for the use of the county and are paid to the county treasurer for the use and benefit of the county.

A. [PL 1997, c. 44, §2 (RP).]

B. [PL 1997, c. 44, §2 (RP).]
[PL 1997, c. 44, §2 (RPR).]

2. Part-time deputies. Part-time deputies must be compensated at a reasonable rate established by the county commissioners. A part-time deputy may not be compensated under this section for more than 1040 hours of work as a part-time deputy in any one calendar or fiscal year. Incidental expenses necessary for the proper enforcement of the laws must be paid in the same manner as provided for full-time deputies and are not included in the limitation on compensation. Compensation paid to a part-time deputy for serving as a court officer is not included in the limitation on compensation.
[PL 1997, c. 44, §2 (RPR).]

3. Special deputies. Special deputies may be compensated only when on active duty as provided under section 382. They must be compensated at a rate equal to the rate of compensation of full-time or part-time deputies, depending on the actual duties performed while on active service.

[PL 1997, c. 44, §2 (RPR).]

4. Civil deputies. Civil deputies must be compensated at a reasonable rate established by the county commissioners pursuant to section 421.
[PL 2017, c. 332, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 180, §1 (AMD). PL 1989, c. 477, §2 (AMD). PL 1997, c. 44, §2 (RPR). PL 2017, c. 332, §6 (AMD).

ARTICLE 4

DUTIES

§401. County law enforcement administration

1. Sheriff's duties. The sheriff shall act as the chief county law enforcement officer and is responsible for administering and directing the sheriff's department as authorized by the county budget. The sheriff shall inform the county commissioners of sheriff's department activities on a regular basis.
[PL 2005, c. 397, Pt. A, §29 (AMD).]

2. County commissioners' duties. The county commissioners shall regularly review the sheriff's operations and shall ensure that the law enforcement functions required under the budget are being adequately performed. The county commissioners may not give orders directly to any deputies or other subordinates of the sheriff, either publicly or privately.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Meetings with municipal officers.

[PL 2003, c. 696, §5 (RP).]

4. Orders from the Governor. Sheriffs shall obey all orders relating to law enforcement which they receive from the Governor.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Construction. Nothing in this subchapter may be construed to relieve any state or municipal law enforcement agency of its authority and responsibility.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 696, §5 (AMD). PL 2005, c. 397, §A29 (AMD).

§402. Aid required by officer; refusal

1. Officer may require aid. Any law enforcement officer may require suitable aid in the execution of official duties in criminal and traffic infraction cases for the following reasons:

A. For the preservation of the peace; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. For apprehending or securing any person for the breach of the peace or in case of the escape or rescue of persons arrested on civil process. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Violation and penalty. Any person required to aid a law enforcement officer under this section who neglects or refuses to do so commits a civil violation for which a forfeiture of not less than $3 nor more than $50 to be paid to the county may be adjudged.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§403. Officer to pay money collected

Any officer, who unreasonably neglects or refuses, on demand, to pay money received by him on execution to the person entitled to the money, shall pay 5 times the lawful interest on that money so long as the officer retains the money. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§404. Arrest in other counties

Every sheriff or deputy sheriff in fresh pursuit of a person who travels beyond the limits of the county in which the sheriff or deputy is appointed has the same power to arrest that person as the sheriff or deputy has within the sheriff's or deputy's own county. This section applies to all classes of crimes and traffic infractions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

As used in this section, with respect to felonies, the term "fresh pursuit" has the same meaning as in Title 15, section 152. With respect to misdemeanors and traffic infractions, "fresh pursuit" means instant pursuit of a person with intent to apprehend. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§405. Optional arrest powers

1. Optional powers.

[PL 2003, c. 233, §1 (RP).]

1-A. Optional powers. The county commissioners may authorize a county's sheriff and certified full-time deputy sheriffs who have met the requirements of Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while outside the jurisdiction in which they are appointed if, when possible, the law enforcement agency of a foreign municipality in which the arrest is to be

made is notified in advance or, when not possible, the law enforcement agency of the foreign municipality in which the arrest has been made is notified immediately after the arrest.
[PL 2003, c. 233, §2 (NEW).]

2. Liability. When a county sheriff or deputy sheriff makes an arrest, as authorized in subsection 1-A, outside of jurisdictional limits of the county in which the sheriff or deputy sheriff is appointed, that sheriff or deputy sheriff has the same immunity from tort liability and all of the pension, relief, disability, worker's compensation, insurance and any other benefits the sheriff or deputy sheriff enjoys while performing duties within the sheriff or deputy sheriff's appointing county.
[PL 2003, c. 233, §3 (AMD).]

SECTION HISTORY

PL 1993, c. 594, §1 (NEW). PL 2003, c. 233, §§1-3 (AMD).

§406. Duties of the sheriffs in support of the State Board of Corrections

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §6 (NEW). RR 2011, c. 1, §46 (COR). PL 2011, c. 374, §§1-3 (AMD). PL 2015, c. 335, §7 (RP).

ARTICLE 5

FEES

§421. Fees

Sheriffs and their deputies shall receive the following fees, unless the sheriffs and deputies are paid a salary instead of the fees: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Civil process. For service of all writs or complaints with summonses, precepts, notices, executions, court orders, orders of service, copies and all other civil process or papers requiring service which are not specified in this section:

A. For proceedings in forma pauperis, $4 for each such service and $8 if the service is made in hand; [PL 1989, c. 303 (NEW).]

B. For service on behalf of the State, $4 for each such service and $8 if the service is made in hand; and [PL 1989, c. 303 (NEW).]

C. For all other proceedings, $8 for each such service and $16 if the service is made in hand; [PL 1989, c. 303 (NEW).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 303 (AMD).]

2. Disclosure subpoena. For the service of a disclosure subpoena as provided by Title 14, chapter 502, $16;
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 303 (AMD).]

3. Complaint for divorce. For the service of a complaint for divorce with a writ of attachment by serving summonses and attested copy of the writ and complaint, or for the service of a complaint for divorce with an order of court by attested copy, $8;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Attachment of real estate. For the attachment of real estate at the registry of deeds, $16;
[PL 1997, c. 5, §1 (AMD).]

5. Attachment of personal property; replevin. For the attachment of personal property or for the service of a writ of replevin, $16, and $10 more for each hour after the first required for the service;
[PL 1997, c. 5, §1 (AMD).]

6. Civil arrests and custody. For civil arrests and custody under the arrest, including arrest and custody under paternity proceedings, $25 plus mileage at a rate of 42¢ per mile;
[PL 2009, c. 205, §3 (AMD).]

7. Tax summonses and warrants. For the service of tax summonses and arrest under tax warrants, the same as for service of civil process;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Executions in personal actions. For levying and collecting executions in personal actions, for every dollar of the first $100, 4¢; for every dollar above $100 and not exceeding $200, 3¢; and for every dollar above $200, 2¢;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Redeeming mortgaged real estate. For advertising in a newspaper a right in equity of redeeming mortgaged real estate to be sold on execution, the sums that they pay the printer for those advertisements; for posting notice of the sale of the equity in the municipality where the land lies and in 2 adjoining municipalities, $6 and usual travel, and for a deed and return of the sale of the equity, $3;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Warrant; mittimus. For the service of a warrant, the officer is entitled to $2 and $2 for the service of a mittimus to commit a person to jail and usual travel, except as limited by Title 15, section 1363, and reasonable expenses incurred in the conveyance of the prisoner;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Attending court and keeping prisoner.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 722, §5 (RP).]

12. Service of tax warrant. For the service of a tax warrant as provided by Title 36, section 173, the same as for service of civil process. For collecting taxes, penalties and interest under such warrants, for every dollar of the first $100, 4¢; for every dollar above $100 and not exceeding $200, 3¢; and for every dollar above $200, 2¢. Additional services, including travel, must be charged as provided in this section;
[PL 2005, c. 218, §3 (AMD).]

13. Service of an income tax warrant.

[PL 2005, c. 218, §4 (RP).]

14. Search for persons to serve. For diligently searching for persons on whom they are commanded to serve civil process when that party cannot be located at an address given to the sheriff or the deputy sheriff by the plaintiff or the plaintiff's attorney when commanding the service to be made, $10, plus necessary travel; and
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 303 (AMD); PL 1989, c. 502, Pt. A, §112 (AMD); PL 1989, c. 878, Pt. A, §82 (RPR).]

15. Levy on real estate. The fees of the register of deeds for recording a levy upon real estate or the deed of the officer for the sale of real estate on execution and all sums paid by the officers for the state transfer tax shall be taxed by the officers in their return. All officers making levy on real estate by appraisal shall have the execution and their return on the execution recorded by the register of deeds for the district where the land lies within 3 months after the levy.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

A sheriff or deputy sheriff may not charge a fee for attesting copies of any writ. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

In addition to the fees charged for service, travel may be charged for each mile actually traveled at the same rate at which county government employees are reimbursed within that county, except that all travel initiated on behalf of a state government agency must be reimbursed under Title 5, section 8. [PL 1997, c. 8, §1 (AMD).]

The county commissioners of each county may require that the fees collected under subsections 1, 2, 3, 5, 7, 12 and 14 be increased by $5, except that the fee paid by any state agency or department may only be increased by $1. The sheriff or deputy shall collect this additional amount and pay it to the county treasurer for the use and benefit of the county. The county commissioners may also require that the fees collected under subsections 1 to 14 be increased by an amount equal to the cost of social security and other withholding taxes on the fees payable under this section. [PL 2005, c. 218, §5 (AMD).]

A full-time deputy, whether or not paid a salary, shall receive the fees listed in this section for the service of civil process if made while not on duty. [PL 1989, c. 180, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 180, §2 (AMD). PL 1989, c. 303 (AMD). PL 1989, c. 502, §A112 (AMD). PL 1989, c. 722, §5 (AMD). PL 1989, c. 878, §A82 (AMD). PL 1991, c. 498, §§2,3 (AMD). PL 1997, c. 5, §1 (AMD). PL 1997, c. 8, §1 (AMD). PL 2003, c. 86, §1 (AMD). PL 2005, c. 218, §§3-5 (AMD). PL 2009, c. 205, §3 (AMD).

§422. Fees from deputies

No sheriff may receive any fees earned by the sheriff's deputies or any percentage of those fees from any of the deputies. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§423. Collection and accounting for fees

The sheriff shall charge and collect, as provided by law, all fees chargeable under the laws for performing any of the duties described in section 373. The sheriff shall keep an accurate account of those fees, and of those specified in section 424, and transmit that account to the county treasurer on the last days of March, June, September and December annually, and the amount deducted from the quarter's salary for the quarter then ending. If these fees are greater than the amount of salary then due the sheriff, the sheriff shall pay the excess to the county treasurer. No county treasurer may pay any quarter's salary until this statement has been filed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§424. Disposal of fees for prisoners confined in jail

For all prisoners committed from other counties or from any court of the United States and for all other persons confined on civil processes, sheriffs shall collect the same fees for their entire support as are provided by law or may be set by the county commissioners as provided by law. They shall include those fees in the statement provided for in section 423 and the fees shall be deducted from the salary as prescribed. They shall not make any charge or collect any fees for the support of prisoners committed on criminal process from any court in the county in which the jail is located. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 6

ACTIONS AGAINST SHERIFFS

§431. Persons injured sue on sheriff's bond; endorsement of writ; costs; judgment

Any person injured by the neglect or misdoings of a sheriff, who has first determined the amount of those damages by judgment in a civil action against the sheriff, the sheriff's executors or administrators, or by a decree of the Probate Court allowing that claim, at the injured person's expense in the name of the Treasurer of State, may institute a civil action on the sheriff's official bond in the county where the sheriff was authorized to act and prosecute it to final judgment and execution. The injured person's name and place of residence or that of the injured person's attorney shall be endorsed on the writ, summons or complaint and the endorser alone is liable for costs. If judgment is rendered for the Treasurer of State, it shall be for the damages determined, or so much of those damages as remains unpaid, with interest. The party's name for whom the action was brought shall be set forth in the execution issued on that judgment. If the judgment is for the defendant, execution for costs shall be issued against the party for whom the action was brought. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§432. Additional actions on sheriff's bond; proceedings

Any other person having a right of action on a sheriff's bond may file an additional complaint in the same action in the office of the clerk of courts. The clerk shall issue a summons, directed to the defendant, specifying the cause of action and the amount demanded, returnable to the same court and endorsed by the name and place of residence of that other person or that person's attorney. The endorser is liable for costs like endorsers of writs, summonses and complaints. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Service; answer. The summons shall be served on the defendant and attachment may be made, as in an original action. After service, the person filing the complaint has all the rights of a plaintiff in the action. The defendant shall answer to the complaint, and judgment may be rendered on the complaint as if it were filed in an action originally instituted for the same cause.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Judgment; execution. When judgment is rendered against the defendant in such an action, damages shall be assessed on each complaint for the amount which the party filing it would recover in an action on the bond, with costs. Executions shall issue for that amount in the name of each party so recovering in the order in which the complaints were filed, but not beyond the amount of the bond. If judgment is for the defendant on any such complaint, execution for costs shall issue against the party filing it. No such action may be dismissed, except by order of court, without the consent of all plaintiffs.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§433. Exemption from arrest in civil action; proceedings on failure to pay execution; office vacated

No sheriff may be arrested upon any writ or execution in a civil action. When a judgment is rendered against the sheriff in the sheriff's private or official capacity, the execution on that judgment shall issue against the sheriff's property but not against the sheriff's body. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Sheriff's disclosure. The sheriff, after notice that execution has issued, unless upon a judgment for the sheriff's official delinquency, may cite the creditor and disclose the actual state of the sheriff's affairs in the manner provided for poor debtors arrested upon execution.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Filing with Governor; office vacated. If the execution is returned unsatisfied and the sheriff has not made a disclosure under subsection 1 or if the judgment was rendered for the sheriff's own official delinquency, the creditor may file an attested copy of the execution and return with the Governor, and serve on the sheriff a copy of that copy, attested by the Secretary of State, with a signed notice of the day on which the first copy was filed. If, within 40 days after this service, the sheriff does not pay the creditor the full debt with reasonable costs for copies and service of the copies, he thereby vacates the office of sheriff. When the office is vacated, the clerk may issue alias executions against the former sheriff's property and body, as in other cases.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§434. Copy of bond available; evidence

The Treasurer of State shall deliver an attested copy of a sheriff's bond to anyone applying and paying for it. That copy is competent evidence in any case relating to the sheriff's bond, unless its execution is disputed, in which case the court may order the treasurer to produce the bond in court for

the purposes of the trial. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§435. Survival of actions against sheriff or deputy

Actions for the neglect or misdoings of a sheriff or the sheriff's deputies survive the sheriff and may be brought against the sheriff's executors or administrators. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 7

REMOVAL OF SHERIFF

§441. Removal of sheriff

Whenever the county commissioners find that the sheriff is not faithfully or efficiently performing any duty imposed by this chapter or that the sheriff is improperly exercising or acting outside the sheriff's authority, the commissioners may file a complaint with the Governor describing in detail the facts of those actions or omissions and requesting the Governor to remove the sheriff from office and appoint another sheriff in that office for the remainder of the term. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 8

COUNTY LAW ENFORCEMENT FUNCTIONS

§451. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Ambulance services. "Ambulance services" means those emergency services primarily designed to transport ill or injured persons to available medical facilities and to administer first aid and emergency life-support systems in the interim period.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Civil emergency services.
[PL 2013, c. 462, §5 (RP).]

3. Communications. "Communications" means a system for sending and receiving information to aid in law enforcement or law enforcement functions between fixed or mobile points, including telephone, teletype or radio systems. Communications also includes dispatching, which means the operation of sending messages and directing the operations of mobile units from a central fixed-base transmitter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Detention. In the case of an adult, "detention" means the confining of an adult held in lawful custody in a specially constructed or modified facility designed to ensure continued custody and control. Detention may be confinement before trial or another hearing by a court or confinement to serve court-imposed sentences or dispositions and may be in a jail or lock-up. In the case of a juvenile, "detention" has the same meaning as in Title 15, section 3003, subsection 4-B.
[PL 1991, c. 493, §26 (AMD).]

4-A. Emergency management. "Emergency management" means the coordination and implementation of an organized effort to mitigate, prepare for, respond to and recover from a disaster.
[PL 2013, c. 462, §6 (NEW).]

5. Emergency services. "Emergency services" means assistance given to one or more persons or areas, when there is imminent danger of damage or injury to property or personal health and safety, and includes ambulance services, emergency management agency services and rescue services.
[PL 2013, c. 462, §7 (AMD).]

6. Intelligence. "Intelligence" means the collection, storage, retrieval, analysis and use of information about persons known to be repeatedly violating the criminal law in a manner difficult to detect as part of a covertly planned, deliberate or organized attempt to undertake criminal acts.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Investigation. "Investigation" means the inquiry about, or examination or observation of, persons or objects to gather evidence concerning unlawful acts or the apprehension of wrongdoers. Investigation may also mean examination, inquiry or observation of persons or things in order to determine compliance with qualifications or requirements for the issuing of licenses or permits, when those actions are taken at the request of the issuing authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Jail. "Jail" means a specially constructed or modified facility designated by law or regularly used for detention for a period of up to 12 months.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Juvenile services. "Juvenile services" means the personnel, procedures and services provided to deal with delinquents or criminal offenders under 18 years of age. "Delinquent" means a person under 18 years of age who:

A. Is truant; [PL 2011, c. 614, §22 (AMD).]

B. Behaves in an incorrigible or indecent and lascivious manner; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Knowingly and willfully associates with vicious, criminal or grossly immoral people; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Repeatedly deserts home without just cause. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2011, c. 614, §22 (AMD).]

10. Laboratory services. "Laboratory services" means those services which concern the testing or analyzing of physical evidence, by chemical or physical science methods and techniques, in order to determine its properties, composition, attributes or other information required for law enforcement purposes.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Law enforcement functions. "Law enforcement functions" means functions or services related to law enforcement, including patrol, laboratory services, intelligence, investigation, juvenile services, emergency services, detention and communications, whether or not those services are administered or directed through the sheriff's department or municipal police departments.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Lock-up. "Lock-up" means a facility designated by law or regularly used for detention for a temporary period before trial or transfer to a jail or other facility.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

13. Patrol. "Patrol" means the regular and repeated circuit of the jurisdictional area as a method of deterring criminal activities, of observing or inspecting for possible violations or criminal activities, of providing for rapid response to calls for assistance and of maintaining order and the general peace. Patrol includes regulating and facilitating the movement of people and vehicles and maintaining highway safety by routine enforcement of the traffic laws and also the response to particular calls for assistance. Patrol may be conducted on foot or in a motor vehicle, aircraft or watercraft.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

14. Rescue. "Rescue" means those services required to free or save persons from imminent injury or death due to accidents or other emergencies.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 1989, c. 925, §12 (AMD). PL 1991, c. 493, §26 (AMD). PL 2011, c. 614, §22 (AMD). PL 2013, c. 462, §§5-7 (AMD).

§452. Patrol

The sheriff in each county, in person or by the sheriff's deputies, to the extent the sheriff undertakes to patrol, shall patrol those areas in the county that have no local law enforcement but may not be required by law to patrol the entire county. The county commissioners, with the sheriff's agreement, may enter into a contract with a municipality under section 107 to provide specific patrol services by the sheriff's department in return for payment for these services. [PL 1991, c. 478 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 478 (AMD).

§453. Communications centers

Each county may establish a communications center, separate from any communications function of the sheriff's department and capable of serving the communication needs of the county and the municipalities that may wish to use the center. [PL 2013, c. 462, §8 (AMD).]

The county commissioners, after consulting with municipal officers, are responsible for setting policies for the communications center. They shall appoint a director or chief dispatcher who is responsible for carrying out their policies. The director or chief dispatcher, if qualified, may be the director of the county emergency management agency. [PL 2013, c. 462, §8 (AMD).]

The county communications center shall provide communication services for the sheriff's department, county emergency management agency, county or municipal rescue or ambulance services, county or municipal fire departments or municipal police departments. [PL 2013, c. 462, §8 (AMD).]

The county commissioners, after consulting with the director or chief dispatcher, may enter into an agreement with a municipality under section 107 to provide specific communications for municipal law enforcement functions, including dispatching of municipal units, in return for payment for these services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 2013, c. 462, §8 (AMD).

§453-A. Public safety answering point

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A10,C10 (NEW). PL 1991, c. 232, §2 (RP).

§454. Detention

Each county shall provide detention facilities, either within the county or, by contract with another county, outside the county. Counties may enter into an agreement under chapter 115 to provide consolidated detention facilities for the use of the agreeing counties. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§455. Investigation, intelligence or laboratory services

Counties may provide investigation, intelligence or laboratory services within the sheriff's department to aid county law enforcement, municipal police departments or the district attorney. The county may set uniform charges payable by municipalities for specific laboratory procedures or tests, when those charges reflect the actual cost of the procedures or tests, but may not require or accept any additional payments, other than the county tax, for investigation, intelligence or other laboratory services when they are provided to municipal departments or the district attorney. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§456. Rescue services

Each county may provide rescue services through the sheriff's department and deputies. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§457. Ambulance service

1. Scope of service. Each county may provide ambulance service:

A. To the entire county, omitting only those municipalities who request not to be included; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. By municipal-county contracts under section 107 or chapter 115, to those municipalities who enter into contracts, provided that county tax revenues are not used to support the ambulance services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Method of service. Within the limits of subsection 1, the county may provide ambulance services by county personnel and vehicles or by contract with private organizations, corporations or persons, or with municipalities under section 107 or chapter 115.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§458. Juvenile services

Each county may provide juvenile services either through the sheriff's department or by other county personnel. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§458-A. Temporary holding capacity

By January 1, 1992, each county shall establish the capacity to hold a juvenile for 72 hours, excluding Saturday, Sunday and legal holidays, either in a temporary holding resource, as defined in Title 15, section 3003, subsection 26 or in a secure detention facility, as defined in Title 15, section 3003, subsection 24-A or shall establish a juvenile detention diversion project approved by the Department of Corrections. [PL 1993, c. 354, §13 (AMD).]

SECTION HISTORY

PL 1989, c. 925, §13 (NEW). PL 1991, c. 493, §27 (AMD). PL 1993, c. 354, §13 (AMD).

§459. Administrative services

Each county may undertake administrative, management and supporting functions required to implement the law enforcement functions authorized by this chapter, including the recruitment and

training of county personnel, maintenance of records and preservation of evidence, purchasing of necessary supplies and planning and budget preparation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§460. Victim and witness support

Each county is encouraged to establish a victim and witness support program to assist the victims and witnesses of criminal offenses in the prosecution of those offenses. Each county is further encouraged to hire, train and provide support staff to a qualified person or persons to carry out the victim and witness support program. The district attorney for the prosecutorial district in which the county is located shall administer any program established under this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§461. State reimbursement for costs of rescue services supported by communities with populations of less than 200

1. Reimbursement for costs. The State may reimburse communities with populations of less than 200 that have no Interstate 95 exit within the town limits of that town for those communities' costs of providing fire, ambulance or other rescue services for accidents that occur on Interstate 95.
[PL 2005, c. 413, §1 (NEW).]

2. Reimbursement for Rescue Services Fund. There is established within the Department of Public Safety the Reimbursement for Rescue Services Fund, referred to in this subsection as "the fund," as a dedicated fund to provide reimbursement for costs of rescue services as provided in subsection 1. The Commissioner of Public Safety may accept money into the fund from gifts, grants, bequests and donations and any appropriation or allocation that the commissioner determines necessary to carry out the purposes of this section.
[PL 2005, c. 413, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 413, §1 (NEW).

§462. Aid to other law enforcement agencies

Except as otherwise provided by county charter or ordinance, the county commissioners may authorize the sheriff or other designee to request other counties to provide law enforcement officers to assist the requesting county. The county commissioner may authorize the sheriff or other designee to provide law enforcement officers to assist other counties when so requested by a properly authorized sheriff or other designee of the requesting county. [PL 2013, c. 261, §1 (NEW).]

The authorizations of the county commissioners under this section must be accompanied by an agreement between the requesting county and the responding county that specifies which county is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to the law enforcement officers of the responding county in the course of assisting the requesting county. [PL 2013, c. 261, §1 (NEW).]

If a request for assistance is for a major unplanned incident that jeopardizes the health and welfare of the citizens of the requesting county and when delay may cause further jeopardy to life or property or in the case of jointly planned collaborative activity, the sheriff or the sheriff's designee may request assistance from or provide assistance to another county or law enforcement agency whether or not an agreement between the 2 counties or parties exists. Each law enforcement department shall assume its own liability to a 3rd party, except for liability incurred by the command or operational decisions made by the requesting department, which must be assumed by the requesting department. For the purposes of this paragraph, "major unplanned incident" means an extraordinary emergency to which a law enforcement agency is unable to adequately respond that presents a substantial and imminent danger to the public safety and that necessitates the cooperation or assistance of other law enforcement agencies. [PL 2013, c. 261, §1 (NEW).]

The law enforcement officers of the responding county or law enforcement agency have the same authority as law enforcement officers within the limits of the requesting county, except as to the service of civil process and, when assisting the other county, have the same privileges and immunities as when acting within their own jurisdiction. [PL 2013, c. 261, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 261, §1 (NEW).

ARTICLE 9

PARKING ENFORCEMENT SPECIALISTS

§471. County volunteer parking enforcement programs

1. Programs established. Each sheriff's department may establish a program to deputize volunteer parking enforcement specialists to enforce handicapped parking restrictions in private parking lots within the county, in areas which are not within the jurisdiction of a municipal police department, pursuant to enforcement agreements entered into between the sheriff's department and the owners of those lots under section 3009, subsection 1, paragraph D.
[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Qualifications. To qualify as a volunteer parking enforcement specialist, an applicant:

A. Must be at least 18 years of age; [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Must successfully complete a criminal history check to standards officially adopted by the sheriff's department; and [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Must successfully complete an examination and training program, as established in section 473. [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

The sheriff's department should seek applicants who are handicapped.
[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Duties. After an applicant has qualified under subsection 2, the sheriff's department shall deputize the applicant as a volunteer parking enforcement specialist. A volunteer parking enforcement specialist shall:

A. Issue parking citations, tickets or oral warnings to operators of motor vehicles parked in violation of any handicapped parking restriction in private parking lots, pursuant to agreements entered into under section 3009, subsection 1, paragraph D; and [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Make referrals to a law enforcement agency when proper and appropriate. [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A11,C10 (NEW).

§472. Municipal volunteer parking enforcement programs

1. Programs established. Each municipal police department, with the approval of the municipal officers, may establish a program or contract with the sheriff to carry out a program to deputize volunteer parking enforcement specialists to enforce handicapped parking restrictions in private lots within the municipality, pursuant to enforcement agreements entered into between the police department and the owners of those lots under section 3009, subsection 1, paragraph D.

[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Qualifications. To qualify as a volunteer parking enforcement specialist, an applicant:

A. Must be at least 18 years of age; [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Must successfully complete a criminal history check to standards officially adopted by the police department; and [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Must successfully complete an examination and training program, as established in section 473, except that the police department may conduct the local orientation. [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

The police department should seek applicants who are handicapped.

[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Duties. After an applicant has qualified under subsection 2, the police department shall deputize the applicant as a volunteer parking enforcement specialist. A volunteer parking enforcement specialist shall:

A. Issue parking citations, tickets or oral warnings to operators of motor vehicles parked in violation of any handicapped parking restriction in private parking lots, pursuant to agreements entered into under section 3009, subsection 1, paragraph D; and [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Make referrals to a law enforcement agency when proper and appropriate. [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A11,C10 (NEW).

§473. Training and examination

1. Training manual. An applicant for the position of parking enforcement specialist shall be provided with a copy of a self-paced study guide and training manual approved by the Commissioner of Public Safety. The manual shall include, but is not limited to, instruction in:

A. What a ticket or citation is and how to issue one correctly; [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Reporting and referring cases to a law enforcement officer or agency when appropriate and avoiding confrontation; [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Communication and public relation skills that emphasize positive public relations and community education; and [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Basic first aid. [PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Examination. The Commissioner of Public Safety shall devise the examination for parking enforcement specialists. The sheriff's department shall offer examinations as needed.
[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Local orientation. Upon successful completion of the examination, applicants shall be given an orientation program by the sheriff's department on local ordinances and procedures.
[PL 1989, c. 104, Pt. A, §11 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A11,C10 (NEW).

SUBCHAPTER 7

COUNTY EMPLOYMENT

ARTICLE 1

GENERAL PROVISIONS

§501. Employment and dismissal of county employees

1. Employment. All county officers or department heads shall submit to the county commissioners or the County Personnel Board, if one has been established under article 2, the name of any person the county officer or department head proposes to employ or the names of more than one person from which the county commissioners or personnel board are to select a person for employment. The county commissioners or the County Personnel Board may approve the employment of the person or select a person for employment. If approval is withheld or a selection is not made, the county commissioners or the County Personnel Board, within 14 days after the name or names have been submitted, shall notify the county officer or department head of the reasons for their disapproval or failure to make a selection.
[PL 1991, c. 548, Pt. D, §3 (AMD).]

2. Qualifications. All county employees shall be appointed without regard to any political affiliation and solely on the basis of professional qualifications relating to the work to be performed or their potential for acquiring those qualifications.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2-A. Probationary period for corrections officials. Beginning October 1, 2009, a person who is hired as jailer, master, keeper or a subordinate assistant or employee under section 1501 must complete an employment probationary period that lasts for one year.
[PL 2009, c. 106, §1 (NEW).]

3. Dismissal, suspension, discipline. Following a reasonable probationary period consistent with the provisions of subsection 2-A and section 2701, a county officer or department head may dismiss, suspend or otherwise discipline a department employee only for cause, except as provided in paragraph A. Cause for dismissal, suspension or disciplinary action must be a just, reasonable, appropriate and

substantial reason for the action taken that relates to or affects the ability, performance of duties, authority or actions of the employee or the public's rights or interests.

A. An employee may be dismissed by a county officer or department head only for cause and only with the prior approval of the county commissioners or personnel board, except that county employees may be laid off or dismissed, with the approval of the county commissioners or personnel board, to meet the requirements of budget reductions or governmental reorganization. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In every case of suspension or disciplinary action other than dismissal, at the employee's request, the county commissioners or personnel board shall investigate the circumstances and fairness of the action and, if they find the charges unwarranted, shall order the employee's reinstatement to the employee's former position with no loss of pay, rights or benefits resulting from the suspension or disciplinary action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2009, c. 106, §2 (AMD).]

4. Application to county commissioners' employees. Subsections 1 and 3 do not apply to county employees directly employed by the county commissioners, unless a County Personnel Board has been established under article 2.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Application to chief deputy. Subsections 1, 2 and 3 do not apply to the appointment, dismissal, suspension or discipline of a chief deputy by a sheriff.

[PL 2011, c. 15, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 548, §D3 (AMD). PL 2001, c. 349, §5 (AMD). PL 2009, c. 106, §§ 1, 2 (AMD). PL 2011, c. 15, §2 (AMD).

§502. Mandatory retirement age prohibited

No county or county officer may adopt any rule or take any action which requires a county employee, as a condition of employment, to retire at or before a specified age or after a specified number of years of service. All of the provisions of section 2704 relating to the prohibition of mandatory retirement of municipal employees also apply to and prohibit the mandatory retirement of county employees. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§503. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the county for use in the examination or evaluation of applicants for positions as county employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 402, §2 (RPR).]

B. County records containing the following:

(1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2019, c. 451, §2 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 451, §2 (AMD).]

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §6 (NEW).]

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §6 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §6 (NEW).]

2. Employee right to review. On written request from an employee or former employee, a county official with custody of the records shall provide that employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the county official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained.

A. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits of which the county official has possession. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and

compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.
[PL 2013, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §2 (AMD). PL 1991, c. 229, §2 (AMD). PL 1991, c. 729, §6 (AMD). PL 1997, c. 770, §2 (AMD). PL 2013, c. 201, §2 (AMD). PL 2019, c. 451, §2 (AMD).

§504. Authority to act

Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken. [PL 2007, c. 396, §2 (NEW); PL 2007, c. 396, §4 (AFF).]

SECTION HISTORY

PL 2007, c. 396, §2 (NEW). PL 2007, c. 396, §4 (AFF).

ARTICLE 2

COUNTY PERSONNEL BOARD

§521. Establishment

The county commissioners may establish, after a public hearing, a County Personnel Board. The County Personnel Board has the duties and powers set forth in section 501 and this article. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§522. Membership, terms and compensation

The County Personnel Board shall be composed of 3 or 5 members who may not be county officers or employees. The county commissioners shall appoint the members. The term of office of the members is 3 years, except that for the first appointment approximately 1/3 of the members shall be appointed for one year, approximately 1/3 for 2 years and the remainder for 3 years. Vacancies shall be filled for the remainder of the term of the vacated appointment. The board shall elect its own chair annually. The members may receive $25 a day for the time actually spent in the discharge of their duties and their necessary expenses. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10,D1 (AMD).

§523. Powers and duties

1. Duties. The board shall:

A. Appoint a director; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Approve appointments as authorized under section 501; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Investigate and make orders in cases of dismissal, suspension or other disciplinary action as authorized under section 501; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Investigate, hold hearings and report its findings, recommendations and orders for the purpose of approving appointments and dismissals, or reviewing suspensions or other disciplinary actions; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Enforce the rules made under subsection 2, paragraph A; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Receive, review and send to the county commissioners and sheriff the annual report of the director. The director's report may be supplemented by any additional comment, criticism or suggestions for the more effectual accomplishment of the purposes of this subchapter that the commission may care to submit; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Keep full and complete minutes of its proceedings, which are, subject to reasonable rules, open to public inspection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Powers. The board may:

A. After a public hearing, adopt or amend rules relating to:

(1) Examination or standards for appointments;

(2) Probationary period;

(3) Reinstatement;

(4) Demotion;

(5) Suspension, layoff or dismissal;

(6) Provisional, emergency, exceptional and temporary appointments; and

(7) Leave of absence, resignation, hours of service, vacations and sick leave; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In the course of any investigation through any member of the board, administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other documentary evidence relating to the investigation.

(1) If any person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which that person which may be lawfully interrogated, the Superior Court in the county on application of any one of the members of the commission or of the director, when authorized by the commission, may issue an order requiring that person to comply with the subpoena and to testify. The court may punish any failure to obey this order as contempt of court. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§524. Director; qualifications; tenure; compensation; powers and duties

At the time of appointment, the director must be a person familiar with the principles, methods and techniques of public personnel administration on the merit basis. The director's tenure of office is at the will of the personnel board and the director shall receive the compensation set by the board with the county commissioners' approval. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The director shall administer and make effective this subchapter and the rules of the personnel board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 8

COUNTY RECORDS LAW

§551. Short title

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

§552. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

§553. General requirements

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

§554. County Records Board

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

§555. Powers and duties of board

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

§556. Assistance to counties

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

§557. Violation

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §4 (RP).

CHAPTER 3

COUNTY BUDGET AND FINANCES

SUBCHAPTER 1

TAX ASSESSMENT AND BUDGET PROCESS

ARTICLE 1

ASSESSMENT OF TAXES; GENERALLY

§701. Annual estimates for county taxes

Except as otherwise provided, the county commissioners shall make the county estimates and cause the taxes to be assessed as follows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Forms. The county estimates must be made in the manner approved by the Office of the State Auditor.
[PL 2003, c. 105, §1 (AMD); PL 2013, c. 16, §10 (REV).]

2. Preparation of estimates. In order to assess a county tax, the county commissioners, in accordance with the schedule established in the county charter or, if the county does not have a charter, by the end of the state fiscal year, shall prepare estimates of the sums necessary to pay the expenses that have accrued or may probably accrue for the coming year for correctional services. The estimates must be drawn so as to authorize the appropriations to be made for correctional services.
[PL 2015, c. 335, §8 (RPR).]

2-A. Tax assessment for correctional services.

[PL 2015, c. 335, §9 (RP).]

2-B. Retirement of fiscal year 2007-08 county jail debt.
[PL 2015, c. 335, §10 (RP).]

2-C. Tax assessment for correctional services beginning July 1, 2015. Beginning July 1, 2015, the counties shall annually collect no less than $62,172,371 from municipalities for the provision of correctional services in accordance with this subsection. The counties may collect an amount that is more than the base assessment limit established in this subsection, except that the additional amount each year may not exceed the base assessment limit as adjusted by the growth limitation factor established in section 706-A, subsection 3 or 4%, whichever is less. If a county collects in a year an amount that is more than the base assessment limit established for that county pursuant to this subsection, the base assessment limit in the succeeding year is the amount collected in the prior year. For the purposes of this subsection, "correctional services" includes management services, personal services, contractual services, commodity purchases, capital expenditures and all other costs, or portions thereof, necessary to maintain and operate correctional services. "Correctional services" does not include county jail debt unless there is a surplus in the account that pays for correctional services at the end of the state fiscal year.

The assessment to municipalities within each county may not be less than the base assessment limit, which is:

A. A sum of $4,287,340 in Androscoggin County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

B. A sum of $2,316,666 in Aroostook County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

C. A sum of $11,575,602 in Cumberland County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

D. A sum of $1,621,201 in Franklin County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

E. A sum of $1,670,136 in Hancock County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

F. A sum of $5,588,343 in Kennebec County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

G. A sum of $3,188,700 in Knox County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

H. A sum of $2,657,105 in Lincoln County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

I. A sum of $1,228,757 in Oxford County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

J. A sum of $5,919,118 in Penobscot County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

K. A sum of $878,940 in Piscataquis County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

L. A sum of $2,657,105 in Sagadahoc County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

M. A sum of $5,363,665 in Somerset County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

N. A sum of $2,832,353 in Waldo County; [PL 2017, c. 475, Pt. A, §50 (RPR).]

O. A sum of $2,000,525 in Washington County; and [PL 2017, c. 475, Pt. A, §50 (RPR).]

P. A sum of $8,386,815 in York County. [PL 2017, c. 475, Pt. A, §50 (RPR).]
[PL 2017, c. 475, Pt. A, §50 (RPR).]

3. Public hearing. The county commissioners shall hold a public hearing in the county on these estimates before the end of the county's fiscal year. They shall publish a notice of the hearing at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the estimates must be sent by mail or delivered in person to the clerk of each municipality in the county at least 10 days before the hearing. The municipal clerk shall notify the municipal officers of the receipt of the estimates.
[PL 2007, c. 663, §2 (AMD).]

4. Meeting with legislative delegation.

[PL 2003, c. 696, §7 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 23 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 2003, c. 105, §1 (AMD). PL 2003, c. 696, §§6, 7 (AMD). PL 2007, c. 653, Pt. A, §§7-9 (AMD). PL 2007, c. 663, §§1, 2 (AMD). PL 2009, c. 1, Pt. Q, §1 (AMD). PL 2009, c. 415, Pt. A, §14 (AMD). PL 2011, c. 315, §§1, 2 (AMD). PL 2011, c. 315, §4 (AFF). PL 2011, c. 431, §1 (AMD). PL 2011, c. 431, §2 (AFF). PL 2013, c. 16, §10 (REV). PL 2013, c. 598, §3 (AMD). PL 2015, c. 335, §§8-11 (AMD). PL 2017, c. 281, §1 (AMD). PL 2017, c. 284, Pt. V, §1 (AMD). PL 2017, c. 475, Pt. A, §50 (AMD).

§702. Estimates recorded and sent to State Auditor

The county clerk shall record the estimates made under section 701. A copy of the estimates must be signed by the chair of the county commissioners and attested to by the county commissioners' clerk. On or before the first day of the fiscal year, the clerk shall transmit that copy to the State Auditor, who shall retain the copy for 3 years. These records are a public record at the office of the county commissioners in the county that submitted those records. [PL 2007, c. 663, §3 (AMD).]

1. Estimates sent to Legislature for approval; amendments.

[PL 2003, c. 105, §2 (RP); PL 2003, c. 696, §8 (RP).]

2. Records.

[PL 2003, c. 105, §2 (RP); PL 2003, c. 696, §8 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 105, §2 (RPR). PL 2003, c. 178, §1 (AMD). PL 2003, c. 696, §8 (RPR). PL 2007, c. 663, §3 (AMD).

§703. Acceptance of state and federal grants

A county may accept and expend grants. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Federal. Counties may apply for and accept and expend Federal Government grants for any purpose for which Federal Government grants are available to counties, either directly or through the State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. State. Counties may apply for and accept and expend state grants for any purpose for which state grants are available to counties, either directly or through a state agency.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Application. This section is not intended to increase, expand or broaden the powers of the counties or to apply to the general revenue sharing funds of the counties.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§704. Federal funds received by counties

1. Anticipated federal funds. Any county which receives federal funds shall provide for the expenditure of those funds in accordance with the laws and procedures governing the expenditure of its own revenue and shall record estimates of the expenditure as provided in section 702.
[PL 2003, c. 105, §3 (AMD).]

2. Procedure if federal funds could not be anticipated. If federal funds become available to the county for expenditure by the county, and if the availability of those funds could not reasonably have been anticipated and included in the estimate adopted for the fiscal year in question, the county may accept and spend these funds in compliance with federal and state law. Upon application for those funds and upon receipt of those funds, the chair of the county commissioners shall submit to the clerk of each municipality in the county a statement:

A. Describing the proposed federal expenditure in the same manner as it would be described in the estimate; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Containing a statement as to why the availability of these federal funds and the necessity of their expenditure could not have been anticipated in time for that expenditure to be adopted as part of the estimates for that particular fiscal year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2005, c. 79, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 105, §3 (AMD). PL 2005, c. 79, §3 (AMD).

§705. Grants to agencies outside of county government

Any grants placed in the county budget by the Legislature to any agency outside of the regular county departments shall be paid to those agencies on a quarterly basis. The commissioners may withhold funds from an agency if there is evidence that funds have been misappropriated or misapplied by the agency. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§706. Apportionment of county tax; warrants

When a county tax is authorized, the county commissioners shall apportion it upon the municipalities, unorganized territory and other places in that county according to the most recent state valuation. They may add to the sum authorized an amount not exceeding 2% of that sum, if a fractional division necessitates that addition and if they demonstrate that necessity in the record of that apportionment. The county commissioners shall establish the date for the payment of the tax. The date may not be earlier than the first day of the following September. [PL 2009, c. 625, §1 (AMD).]

No later than the 15th of July preceding the date established for payment of the tax, the county commissioners shall issue their warrant to the assessors of the municipalities and other places and to the State Tax Assessor for the unorganized territory within that county. Those officers shall assess the sum apportioned to their tax jurisdiction and commit their assessment for collection in the same manner as other amounts to be raised by the property tax during the tax year to which the county tax warrant applies. [PL 2009, c. 625, §1 (NEW).]

If a municipality or place or the State Tax Assessor must make a supplemental assessment due to failure by the county commissioners to issue their warrant by July 15th, the county must bear the costs of that supplemental assessment. Those costs may be recovered by the tax jurisdiction through an offset against the county tax that the tax jurisdiction would otherwise be required to pay over to the county. [PL 2009, c. 625, §1 (NEW).]

The county may collect delinquent county taxes and charge interest on delinquent county taxes as provided under Title 36, sections 891 and 892-A. [PL 2009, c. 625, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 625, §1 (AMD).

§706-A. Limitation on county assessments

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

A. "Average personal income growth" has the same meaning as under Title 5, section 1531, subsection 2. [PL 2015, c. 267, Pt. L, §11 (AMD).]

B. "County assessment" means total annual county appropriations reduced by all resources available to fund those appropriations other than the county tax. [PL 2015, c. 335, §12 (AMD).]

C. [PL 2015, c. 267, Pt. L, §11 (RP).]

D. "Property growth factor" means the percentage equivalent to a fraction, established by a county, whose denominator is the total valuation of all municipalities, plantations and unorganized territory in the county, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in those jurisdictions that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property. [PL 2015, c. 335, §12 (AMD).]

E. [PL 2015, c. 267, Pt. L, §11 (RP).]

[PL 2015, c. 267, Pt. L, §11 (AMD); PL 2015, c. 335, §12 (AMD).]

2. County assessment limit. Except as otherwise provided in this section, a county may not in any year adopt a county assessment that exceeds the county assessment limit established in this subsection.

A. The county assessment limit for the first fiscal year for which this section is effective is the county assessment for the county for the immediately preceding fiscal year multiplied by one plus

the growth limitation factor pursuant to subsection 3. [PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

B. The county assessment limit for subsequent fiscal years is the county assessment limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3. [PL 2005, c. 621, §8 (AMD).]

C. If a previous year's county assessment reflects the effect of extraordinary, nonrecurring events, the county may submit a written notice to the State Tax Assessor requesting an adjustment in its county assessment limit. [PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

[PL 2005, c. 621, §8 (AMD).]

3. Growth limitation factor. The growth limitation factor is the average personal income growth plus the property growth factor.

A. [PL 2015, c. 267, Pt. L, §12 (RP).]

B. [PL 2015, c. 267, Pt. L, §12 (RP).]

[PL 2015, c. 267, Pt. L, §12 (AMD).]

4. Adjustment for new state funding. If the State provides net new funding to a county for existing services funded in whole or in part by the county assessment, other than required state mandate funds pursuant to section 5685 that do not displace current county assessment expenditures, the county shall lower its county assessment limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the county from the State in that fiscal year, with respect to services funded in whole or in part by the county assessment, less the product of the following: the amount of such funds received in the prior fiscal year multiplied by one plus the growth limitation factor described in subsection 3. If a county receives net new funds in any fiscal year for which its county assessment limit has not been adjusted as provided in this subsection, the county shall adjust its county assessment limit in the following year in an amount equal to the net new funds.

[PL 2005, c. 683, Pt. I, §1 (AMD).]

5. Exceeding county assessment limit; extraordinary circumstances. The county assessment limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the county budget authority, including:

(1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;

(2) Unfunded or underfunded state or federal mandates;

(3) Citizens' initiatives or other referenda;

(4) Court orders or decrees; or

(5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation. [PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

B. The county assessment limit may be exceeded only as provided in subsection 7. [PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

C. Exceeding the county assessment limit established in subsection 2 permits the county assessment to exceed the county assessment limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the county assessment limit for future years. [PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

D. For fiscal years 2005-06 and 2006-07 in Sagadahoc County, and fiscal years 2006 and 2007 in Lincoln County, that portion of the county assessment that is attributable to the costs of construction, debt service, operation and maintenance of a new jail facility authorized under chapter 17 is not subject to paragraphs A, B and C or to subsections 2, 6 and 7. Notwithstanding subsection 2, paragraph A, the county assessment limit for fiscal year 2007-08 for Sagadahoc County and fiscal year 2008 in Lincoln County is the county assessment for each county for the previous fiscal year, multiplied by one plus the growth limitation factor pursuant to subsection 3. Notwithstanding subsection 2, paragraph C, the county assessments for Sagadahoc County in fiscal year 2008-09 and subsequent fiscal years and for Lincoln County in fiscal year 2009 and subsequent fiscal years are subject to subsection 2, paragraph B. [PL 2005, c. 348, §1 (NEW).]

[PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF); PL 2005, c. 348, §1 (AMD).]

6. Increase in county assessment limit. The county assessment limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

[PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

7. Process for exceeding county assessment limit. A county may exceed or increase the county assessment limit only if approved by a vote of a majority of all the members of both the county budget committee or county budget advisory committee and the county commissioners.

Unless a county charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the county, requesting a vote on the question of exceeding the county assessment limit is submitted to the county commissioners within 30 days of the commissioners' vote pursuant to this subsection, the article voted on by the commissioners must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters, the filing requirement contained in section 2528 does not apply and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the county commissioners and entered upon the county records.

[PL 2005, c. 12, Pt. WW, §10 (AMD).]

8. Treatment of surplus; reserves. Any county tax revenues collected by a county in any fiscal year in excess of its county assessment limit, as determined by a final audited accounting, must be transferred to a county tax relief fund, which each county must establish, and used to reduce county assessments in subsequent fiscal years. Nothing in this subsection limits the ability of a county to maintain adequate reserves.

[PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

9. Enforcement. If a county adopts a county assessment in violation of this section, the State Tax Assessor may require the county to adjust its county assessment downward in an amount equal to the illegal county assessment and impose such other penalties as the Legislature may provide.
[PL 2005, c. 2, Pt. B, §1 (NEW); PL 2005, c. 2, Pt. B, §§2, 4 (AFF); PL 2005, c. 12, Pt. WW, §14 (AFF).]

SECTION HISTORY

PL 2005, c. 2, §B1 (NEW). PL 2005, c. 2, §§B2,4 (AFF). PL 2005, c. 12, §WW10 (AMD). PL 2005, c. 12, §WW14 (AFF). PL 2005, c. 348, §1 (AMD). PL 2005, c. 621, §§5-8 (AMD). PL 2005, c. 683, §I1 (AMD). PL 2007, c. 653, Pt. A, §10 (AMD). PL 2015, c. 267, Pt. L, §§11, 12 (AMD). PL 2015, c. 335, §12 (AMD).

§707. Illegal assessments

All assessments under this Part made by the county commissioners which include sums assessed for an illegal object are not void, nor shall any error, mistake, omission or inclusion of illegal sums in the assessment by the county commissioners void any part of the assessment that is assessed for legal purposes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Any person paying a tax assessed for an illegal object may bring a civil action against the county in the Superior Court for the same county and may recover as much of the sum paid as was assessed for an illegal object, with 25% interest and costs and any damages which that person has sustained because of the mistakes, errors or omissions of the commissioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§708. Alternative fiscal year

The county commissioners of a county may adopt a July 1st to June 30th fiscal year. A county may raise one or 2 taxes during a single valuation, if the taxes raised are based on appropriations made for one or more county fiscal years none of which exceeds 18 months. A county fiscal year may extend beyond the end of the current tax year. The county commissioners, when changing the county's fiscal year, may for transition purposes, adopt one or more fiscal years not longer than 18 months each. [PL 2009, c. 391, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 391, §2 (AMD).

§709. County correctional services budgets presented to State Board of Corrections

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §11 (NEW). PL 2011, c. 374, §4 (AMD). PL 2015, c. 335, §13 (RP).

§710. County correctional services budget procedure

(REPEALED)

SECTION HISTORY

PL 2007, c. 653, Pt. A, §12 (NEW). PL 2011, c. 374, §5 (AMD). PL 2013, c. 598, §§4-6 (AMD). PL 2015, c. 335, §14 (RP).

ARTICLE 2

ANDROSCOGGIN COUNTY BUDGET COMMITTEE

§721. Purpose

The purpose of this article is to establish in Androscoggin County a method of appropriating money for county expenditures, including the salaries for county officers, according to a budget that must first be adopted by a budget committee and must then be submitted to the county commissioners. This article amends the statutory method in sections 2, 701 and 702 by creating a committee elected by Androscoggin County municipal officers with authority to adopt or amend the budget subject to review and revision by the county commissioners and, if revised, subject to subsequent acceptance or rejection by the budget committee as provided in this article. This article applies only to Androscoggin County. [PL 1999, c. 253, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 253, §1 (AMD).

§722. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. County commissioners. "County commissioners" means the county commissioners of Androscoggin County.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Municipal officials. "Municipal officials" means the mayor, aldermen, councillors or manager of a city and the selectmen, councillors or manager of a town located in Androscoggin County.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§723. Androscoggin County budget committee

In Androscoggin County there is established a budget committee to carry out the purposes of this article. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Membership. The budget committee consists of 11 members, 3 members from each commissioner district selected as provided in this section and 2 members of the Androscoggin County legislative delegation elected by the legislative delegation. The members from the Androscoggin County legislative delegation may vote on committee matters. The county commissioners serve on the committee in an advisory capacity only and may not vote on any committee matters.

In 1989, and every 3rd year thereafter, at least 90 days before the end of the fiscal year, the 11 members are elected by the following procedure.

A. The county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of nominating at least 3 residents of the district of voting age as candidates for the county budget committee. At least 2 of the persons nominated must not be municipal officials. A county commissioner shall serve as nonvoting moderator for that district caucus. Nominations shall be received from the floor and require a majority vote of those present to be approved. The names of those duly nominated shall be recorded and forwarded to the county commissioners to be placed on a written ballot. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The county commissioners shall have written ballots printed with the names of those candidates selected in each county commissioner district under paragraph A. Each commissioner district shall require a separate ballot and each ballot shall specify each candidate's full name and municipality. The county commissioners shall distribute the appropriate ballots to each municipality within a commissioner district. The municipal officers shall vote, as a board, for 3 budget committee members from the candidates on the ballot. The municipal officers must vote for at least 2 candidates who are not municipal officials. After voting, the municipal officers shall return the ballot to the county commissioners by a certain date. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The ballots shall be counted at a regular meeting of the county commissioners. Each municipality's vote shall be weighted according to the formula set out in paragraph D to ensure that each municipality's vote reflects its proportion of the commissioner district's total population. The 2 candidates with the highest vote totals and who are not municipal officials and the candidate with the otherwise highest vote total are elected to membership on the county budget committee for each district. The county commissioners shall:

(1) Notify each municipality, in writing, of the election results; and

(2) Certify the results to the Secretary of State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The votes of each municipality shall be multiplied by the figure next to the municipality's name as follows:

(1) For Commissioner District Number One:

(a) Durham, 975;

(b) Greene, 1176;

(c) Leeds, 577;

(d) Lisbon, 2619;

(e) Livermore, 607;

(f) Livermore Falls, 931;

(g) Sabattus, 1294;

(h) Turner, 1435; and

(i) Wales, 381;

(2) For Commissioner District Number 2:

(a) Auburn, 6935;

(b) Mechanic Falls, 937;

(c) Minot, 671; and

(d) Poland, 1454; and

(3) For Commissioner District Number 3:

(a) Lewiston, 1.

These adjustment figures must be revised after each decennial census. [PL 2009, c. 650, §1 (RPR).]

E. The Androscoggin County legislative delegation shall caucus and choose its 2 budget committee members for a term to be set by the delegation. [PL 1999, c. 253, §3 (NEW).]

[PL 2009, c. 650, §1 (AMD).]

2. Duties. The county budget committee shall review the budget and estimates, including the salaries for county officers, prepared by the county commissioners, and shall approve a final county budget as provided in this article.

[PL 1999, c. 253, §4 (AMD).]

3. Term of office. The term of office for budget committee members is 3 years.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Vacancies. A vacancy occurring on the budget committee must be filled by the committee for the balance of the unexpired term. The person appointed to fill the vacant office must be from the same municipality or county as the person vacating the office.

A legislative vacancy occurring on the budget committee must be filled by the Androscoggin County legislative delegation for the balance of the unexpired term.

[PL 1999, c. 253, §4 (AMD).]

5. Expenses. Members shall serve without compensation, but shall be reimbursed from the county treasury for expenses lawfully incurred by them in the performance of their duties.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 253, §§2-4 (AMD). PL 2009, c. 650, §1 (AMD).

§724. Budget committee organization

The budget committee shall conduct its meetings in public at the county courthouse. The county commissioners shall direct the county clerk to call an organizational meeting of the budget committee at least 60 days before the end of the county's fiscal year. The county commissioners shall provide the committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information. The budget committee shall select its own chairman, vice-chairman and secretary. The budget committee shall adopt its own rules or procedures and bylaws.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§725. Budget procedure

1. Proposed budget. The county commissioners shall submit itemized budget estimates, as described in sections 701 and 702, and a capital improvement program to the budget committee in a timely fashion at least 60 days before the end of the county's fiscal year.
[PL 1993, c. 573, §1 (AMD).]

2. Public hearing on commissioners' budget. The budget committee shall review the proposed itemized budgets prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The budget committee shall hold a public hearing, with notice as provided in subsection 4, on the proposed itemized budgets prepared by the county commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Budget committee process. After the public hearing required under subsection 2 is completed, the budget committee may increase, decrease, alter or revise the proposed budgets provided that:

A. The budget committee shall enter into its minutes an explanation for any change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The total estimated revenues, together with the amount of county tax to be levied, must equal the total estimated expenditures. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Public hearing on revised budget. The budget committee shall hold at least one additional public hearing in the county on the proposed budget, as revised by the budget committee, before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing must be given at least 10 days before the hearing in all newspapers of general circulation within the county. Written notice and a copy of the proposed budget shall be mailed or delivered in person to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the proposed budget.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Adoption of budget. After the public hearing or hearings held under subsection 4 are completed, the budget committee shall adopt a final budget and transmit that budget to the county commissioners. The county commissioners may not revise the budget adopted by the budget committee, except by unanimous vote of the commissioners elected. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership. Those actions are final and are not subject to further action by either county commissioners or the budget committee. The budget and the capital improvement program submitted under subsection 1 must be finally adopted by a majority vote of the budget committee at a duly called meeting held before the end of the county's fiscal year.
[PL 1999, c. 253, §5 (AMD).]

6. Final budget approval.
[PL 1999, c. 253, §6 (RP).]

7. Assessment of taxes. The budget as approved under this article is the final authorization for the assessment of county taxes. The budget must be sent to the county commissioners and the county tax authorized apportioned and collected in accordance with section 706.
[PL 1999, c. 253, §7 (AMD).]

8. Interim budget. Until a budget is finally adopted, the county shall operate on an interim budget which may not exceed the previous year's budget.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Surplus funds.

[PL 2005, c. 84, §1 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 573, §§1,2 (AMD). PL 1999, c. 253, §§5-8 (AMD). PL 2005, c. 84, §1 (AMD).

§726. Budget amendments

The approved budget governs the expenditures of the county during the fiscal year. No expenses may be incurred in excess of those shown in the approved budget, but the county commissioners may transfer funds as provided in section 922, and the budget may be from time to time revised by the preparation and submission of a proposed amended budget by the county commissioners to the budget committee. The budget committee shall within 15 calendar days approve, disapprove or amend this revised budget. A report of approval of a revised budget must be transmitted to the State Auditor within 15 days of the approval. [PL 1999, c. 253, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 253, §9 (AMD).

§727. Filing of county budget

A copy of the final budget and any subsequent amendments shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV).

ARTICLE 3

AROOSTOOK COUNTY BUDGET COMMITTEE

§731. Purpose

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§732. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§733. Aroostook County budget committee

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§734. Budget committee organization

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§735. Budget procedures

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§736. Budget amendments

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§737. Filing of county budget

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§738. Repeal

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C5,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 3-A

AROOSTOOK COUNTY FINANCE COMMITTEE

§739. Aroostook County finance committee

In Aroostook County, there is established a finance committee to carry out the purposes of this article. As used in this article, "county commissioners" means the county commissioners of Aroostook County. [PL 1989, c. 475, §§1, 2 (NEW).]

1. Membership. The finance committee shall consist of 9 members, 3 members from each commissioner district elected as provided in this subsection. The county commissioners shall designate 3 district subdivisions within each district from each of which one member of the finance committee shall be elected.

A. Finance committee members shall be elected on the Tuesday following the first Monday of November in each even-numbered year. Nominations for the office of finance committee member are to be nonpartisan and are to be made by petition in accordance with Title 21-A, chapter 5, subchapter II, except that candidates need not verify by oath or affirmation that they are not enrolled in a party and the number of signatures of voters on a nomination petition for a candidate in each district subdivision must be at least 25 and not more than 40. The election must be conducted and the results determined as provided for the election of county commissioners in section 61. [PL 1989, c. 475, §§1, 2 (NEW); PL 1989, c. 686 (AMD).]

B. Before the first election of finance committee members, the county commissioners shall designate 5 district subdivisions for which members of the finance committee shall serve initial terms of 4 years, and 4 district subdivisions for which members of the finance committee shall serve initial terms of 2 years. All subsequent terms are for 4 years. The county commissioners shall reapportion these subdivisions after each Federal Decennial Census. [PL 1989, c. 475, §§1, 2 (NEW).]

C. The finance committee shall annually elect a chair from among its members. [PL 1989, c. 475, §§1, 2 (NEW).]

D. A vacancy occurring on the finance committee shall be filled by the committee, subject to confirmation by a majority of the county commissioners, for the balance of the unexpired term. The person appointed to fill the vacant office must be from the same municipality or unorganized territory as the person vacating the office. [PL 1989, c. 475, §§1, 2 (NEW).]

E. Members shall serve without compensation. [PL 1989, c. 475, §§1, 2 (NEW).]

F. The county finance committee shall review and approve the budget and estimates, including the budget for municipal services in the unorganized territory prepared by the county commissioners. [PL 1989, c. 475, §§1, 2 (NEW).]

[PL 1989, c. 475, §§1, 2 (NEW); PL 1989, c. 686 (AMD).]

SECTION HISTORY

PL 1989, c. 475, §§1,2 (NEW). PL 1989, c. 686 (AMD).

§739-A. Finance committee organization

The finance committee shall conduct its meetings in public at county buildings. The county commissioners shall direct the county clerk to call an organizational meeting of the finance committee no later than 60 days before the end of the county's fiscal year. The county commissioners shall provide the committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information. The finance committee shall select its own chair, vice-chair and secretary. The finance committee shall adopt its own rules or procedures and bylaws. [PL 1989, c. 475, §§1, 2 (NEW).]

SECTION HISTORY

PL 1989, c. 475, §§1,2 (NEW).

§739-B. Budget procedures

1. Proposed budget. The county commissioners shall submit itemized finance estimates, as described in sections 701, 702 and 7503, in the form of a budget, to the finance committee in a timely fashion, no later than 60 days before the end of the county's fiscal year.
[PL 1989, c. 475, §§1, 2 (NEW).]

2. Budget review process. The finance committee shall review the itemized estimated budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The finance committee shall prepare a proposed budget and may increase, decrease or alter the estimated budget provided that:

A. The finance committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 1989, c. 475, §§1, 2 (NEW).]

B. In the proposed budget, the total estimated revenues, together with the amount of county tax to be levied, equals the total estimated expenditures. [PL 1989, c. 475, §§1, 2 (NEW).]
[PL 1989, c. 475, §§1, 2 (NEW).]

3. Public hearing. The finance committee shall hold a public hearing in the county on its proposed budget before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing shall be given at least 10 days before the hearing in all newspapers of general circulation within the county. Written notice and a copy of the proposed budget shall be sent by mail, or delivered in person, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the proposed budget.
[PL 1989, c. 475, §§1, 2 (NEW).]

4. Finality of budget. After the public hearing is completed, the finance committee shall adopt a final budget and transmit that budget to the county commissioners. The county commissioners shall not further increase, decrease, alter or revise the budget as adopted by the finance committee, except by unanimous vote of the county commissioners. If the adopted budget is changed by the county commissioners, the finance committee may reject that change by a 2/3 vote of its membership. Those actions shall be final and not subject to further action by either the county commissioners or finance committee.
[PL 1989, c. 475, §§1, 2 (NEW).]

5. Assessment of taxes. The budget as so adopted and changed under subsection 4 is the final authorization for the assessment of county taxes. The approved final budget shall be sent to the county commissioners and the county tax authorized shall be apportioned and collected in accordance with section 706. The approved final budget for the unorganized territories shall be sent to the State as provided by section 7503.
[PL 1989, c. 475, §§1, 2 (NEW).]

6. Interim budget. Until a budget is finally approved, the county shall operate on an interim budget which shall not exceed the previous year's budget.
[PL 1989, c. 475, §§1, 2 (NEW).]

7. Transfer of funds. The county commissioners may transfer funds as provided in section 922.
[PL 1989, c. 475, §§1, 2 (NEW).]

SECTION HISTORY

PL 1989, c. 475, §§1,2 (NEW).

§739-C. Budget amendments

The approved final budget shall govern the expenditures of the county during the fiscal year. No expenses may be incurred in excess of those shown in the approved final budget, but the budget may

be from time to time revised by the preparation and submission of a proposed amended budget by the county commissioners to the finance committee for approval. Only after the finance committee has approved an amended approved final budget, shall the amendment become effective. A report of approval of an amended budget shall be transmitted to the State Auditor within 15 days of an approval of an amended budget by the finance committee. [PL 1989, c. 475, §§1, 2 (NEW).]

SECTION HISTORY

PL 1989, c. 475, §§1,2 (NEW).

§739-D. Filing of county budget

A copy of the approved final budget and subsequent amendments shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1989, c. 475, §§1, 2 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1989, c. 475, §§1,2 (NEW). PL 2013, c. 16, §10 (REV).

ARTICLE 4

CUMBERLAND COUNTY BUDGET

§741. Budget; appropriations; approval

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 380, §3 (RP). PL 1995, c. 380, §10 (AFF).

§741-A. Cumberland County Budget Advisory Committee

Notwithstanding sections 701 and 702, the county commissioners working in conjunction with the Cumberland County Budget Advisory Committee, established in this section, and the county manager, established in section 82, subsection 5, are responsible for establishing the county budget as provided in this article, except for the Cross Insurance Arena budget as provided in section 747. The county commissioners shall appropriate money for county expenditures according to the budget established in accordance with this article. [PL 2017, c. 195, §1 (AMD).]

1. Membership; caucus; election. The Cumberland County Budget Advisory Committee consists of the Cumberland County commissioners and 9 municipal officers. The county commissioner members serve on the budget committee in an advisory capacity only and may not vote on any committee matter. The municipal officer members are elected in accordance with this section.

A. There must be 3 members from each commissioner's district. No more than 2 members may reside in the same municipality. [PL 1997, c. 584, §1 (AMD).]

B. No later than 135 days before the end of the county's fiscal year the county commissioners shall notify all municipal officers to caucus by county commissioner district at a specified date, time and place for the purpose of electing members to the budget committee. Public notice of the meeting must be issued at least 10 days before the meeting is held. [PL 2007, c. 663, §4 (AMD).]

C. The commissioner for each district shall serve as the nonvoting moderator for that district caucus. At the caucus, the municipal officers shall nominate by motion from the floor proposed members to fill any vacancies on the budget committee. For each vacancy the nominee receiving

the most votes from among the officers present and voting is elected as a budget committee member. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

D. Committee membership terminates when a budget advisory committee member ceases to be a municipal officer or to reside in the commissioner district from which elected. Vacancies occurring on the budget advisory committee must be filled by the committee, subject to confirmation by a majority of the county commissioners. If a vacancy occurs with less than one year remaining in the term of office, the person selected by the committee serves for the balance of the unexpired term. If a vacancy of one year or more occurs, the person selected by the committee serves until the next municipal officers' caucus. At that time a replacement is selected to serve for the balance of the unexpired term. The person appointed to fill the vacant office must be a municipal officer in the same commissioner district as the person vacating the office. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

[PL 2007, c. 663, §4 (AMD).]

2. Chair; terms; compensation; procedures. Administration of the budget advisory committee is as follows.

A. The budget advisory committee shall select its own chair, vice-chair and secretary each year. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

B. Members serve for 3-year terms and may not serve more than 2 consecutive terms. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

C. Members may be compensated. The amount and conditions must be unanimously approved by the budget advisory committee and the county commissioners. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

D. The committee shall adopt rules of procedure and bylaws each year. In a procedural situation not addressed by these rules and bylaws, Robert's Rules of Order prevail. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

E. The county commissioners shall provide the budget advisory committee with necessary clerical assistance, office expenses and suitable meeting space as well as access to appropriate county files and information. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

[PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

3. Meetings. The budget advisory committee shall conduct its meetings in public in accordance with this subsection and shall record its minutes and votes.

A. The county commissioners shall call an organizational meeting of the budget advisory committee each year within 2 weeks after caucus elections. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

B. The county commissioners or the chair of the budget advisory committee may call a meeting for the purpose of discussing county financial matters and approving a county budget. [PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

[PL 1995, c. 380, §4 (NEW); PL 1995, c. 380, §10 (AFF).]

SECTION HISTORY

PL 1995, c. 380, §4 (NEW). PL 1995, c. 380, §10 (AFF). PL 1997, c. 584, §1 (AMD). PL 2007, c. 663, §4 (AMD). PL 2017, c. 195, §1 (AMD).

§742. Interim budget

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 380, §5 (RP). PL 1995, c. 380, §10 (AFF).

§742-A. Budget procedures

1. Budgetary planning meetings. During the 4th month before the end of the county's fiscal year, county commissioners shall meet with the county manager and county department heads to establish county budgetary needs for the ensuing year. County budget advisory committee members shall attend these meetings, which must be held in the county courthouse and must be open to the public.
[PL 2007, c. 663, §5 (AMD).]

2. Draft budget. Ninety days prior to the beginning of the fiscal year, the county commissioners shall submit a draft budget to the budget advisory committee.
[PL 2007, c. 663, §5 (AMD).]

3. Proposed budget. The budget advisory committee shall review the draft budget with the county commissioners at meetings during the 3rd month prior to the beginning of the fiscal year and shall prepare a proposed budget. The budget advisory committee may increase, decrease or alter the county commissioners' draft budget as long as:

A. The budget advisory committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues initially presented by the county commissioners; and [PL 1995, c. 380, §6 (NEW); PL 1995, c. 380, §10 (AFF).]

B. In the proposed budget, the total estimated revenue, together with the amount of county tax to be levied, at least equals the total estimated expenditures. [PL 1995, c. 380, §6 (NEW); PL 1995, c. 380, §10 (AFF).]

[PL 2007, c. 663, §5 (AMD).]

4. Public hearings. Public hearings on the proposed budget must be held by the budget advisory committee and county commissioners in each commissioner's district at least one month prior to the beginning of the fiscal year. Notice of these hearings must be given at least 10 days before the hearing in newspapers of general circulation within the county. Written notice and a copy of the proposed budget must be sent by mail, or delivered in person, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the receipt of the proposed budget and the date of the hearings.
[PL 2007, c. 663, §5 (AMD).]

5. Adoption of final budget. After the public hearings are completed, the budget advisory committee may further increase, decrease or alter the proposed budget based on information obtained during the public hearing process. The proposed budget must be approved by a majority vote of the budget advisory committee at a duly called meeting not later than 15 days prior to the beginning of the fiscal year. The budget advisory committee shall send the approved budget to the county commissioners. The county commissioners may adopt the budget as submitted or after increasing, decreasing or altering the budget by a majority vote by December 31st.
[PL 2007, c. 663, §5 (AMD).]

6. Effect of adoption. Once the budget is finalized as provided in subsection 5, it is final and not subject to further action by the county commissioners or the budget advisory committee.
[PL 1995, c. 380, §6 (NEW); PL 1995, c. 380, §10 (AFF).]

7. Interim budget. Until a budget is finally approved, the county must be operated on an interim budget, which may not exceed the previous year's budget.
[PL 1995, c. 380, §6 (NEW); PL 1995, c. 380, §10 (AFF).]

SECTION HISTORY

PL 1995, c. 380, §6 (NEW). PL 1995, c. 380, §10 (AFF). PL 2007, c. 663, §5 (AMD).

§743. Advisory committee

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 380, §7 (RP). PL 1995, c. 380, §10 (AFF).

§743-A. Filing of county budget

A copy of the adopted budget must be filed with the State Auditor on forms approved by the Office of the State Auditor and must be retained by the State Auditor for 3 years. [PL 1995, c. 380, §8 (NEW); PL 1995, c. 380, §10 (AFF); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1995, c. 380, §8 (NEW). PL 1995, c. 380, §10 (AFF). PL 2013, c. 16, §10 (REV).

§744. Public hearing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 380, §9 (RP). PL 1995, c. 380, §10 (AFF).

§745. Budget estimate; submission to advisory committee

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 380, §9 (RP). PL 1995, c. 380, §10 (AFF).

§746. Final budget estimates; filing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 380, §9 (RP). PL 1995, c. 380, §10 (AFF).

§747. Board of Trustees of Cross Insurance Arena; budget

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

A. "Board of trustees" or "board" means the Board of Trustees of the Cross Insurance Arena established in subsection 2. [PL 2017, c. 195, §2 (NEW).]

B. "County commissioners" means the commissioners of Cumberland County. [PL 2017, c. 195, §2 (NEW).]

C. "Cross Insurance Arena" or "arena" means the multipurpose arena located in the City of Portland and created pursuant to former Private and Special Law 1971, chapter 86. [PL 2017, c. 195, §2 (NEW).]

[PL 2017, c. 195, §2 (NEW).]

2. Board of trustees established. The Board of Trustees of the Cross Insurance Arena is established to develop, review and make recommendations to the county commissioners on financial, contractual and policy issues regarding the Cross Insurance Arena. The board of trustees consists of 9 members appointed by the county commissioners as follows:

A. Two members from the City of Portland; [PL 2017, c. 195, §2 (NEW).]

B. One member from each of the following sets of municipalities:

(1) South Portland and Cape Elizabeth;

(2) Scarborough, Westbrook and Falmouth;

(3) Gorham, Windham, Standish, Baldwin and Sebago;

(4) Brunswick, Freeport, Harpswell, Pownal and New Gloucester; and

(5) Yarmouth, Cumberland, North Yarmouth, Gray, Casco, Raymond, Naples, Harrison and Bridgton; and [PL 2017, c. 195, §2 (NEW).]

C. Two members at large. [PL 2017, c. 195, §2 (NEW).]

Trustees are appointed for a term of 3 years and may not serve more than 2 consecutive terms.
[PL 2017, c. 195, §2 (NEW).]

3. Duties of the board of trustees. The board of trustees shall propose and recommend policies and procedures for the arena. The board shall develop, present and review the budget of the arena. The board shall prepare and present an annual budget for the arena to the county commissioners for approval and adoption by the commissioners, in accordance with subsection 4. If the county commissioners increase or decrease the overall budget for the arena from the level presented by the board, the board shall adjust individual budget items as necessary within the limits of the adopted budget. The board shall meet monthly or as needed to complete its work.
[PL 2017, c. 195, §2 (NEW).]

4. Budget adoption. The county commissioners shall adopt the budget of the Cross Insurance Arena, an enterprise fund under the oversight of the county commissioners, and shall act as funding authority for the operations of the arena. The county commissioners may increase or decrease the overall budget of the arena that is presented by the board pursuant to subsection 3, but the commissioners may not otherwise alter or amend the arena budget presented by the board. The county commissioners shall meet with the board as needed, but no less than annually, to address the needs of the arena.
[PL 2017, c. 195, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 195, §2 (NEW).

ARTICLE 4-A

KNOX COUNTY BUDGET COMMITTEE

§751. Knox County budget committee

In Knox County, there is established a budget committee to carry out the purposes of this article. As used in this article, "county commissioners" means the county commissioners of Knox County. [PL 1991, c. 257 (NEW).]

1. Membership. The budget committee consists of 9 members who are elected from districts defined in section 757 and as provided in this subsection. Each committee member serves a 4-year term.

A. Budget committee members must be elected on the Tuesday following the first Monday of November in each even-numbered year beginning in 1994. Each term begins on the first day of the fiscal year following the election. [PL 2007, c. 663, §6 (AMD).]

B. Nominations for the office of budget committee member must be nonpartisan and be made by petition in accordance with Title 21-A, chapter 5, subchapter II, except that candidates need not verify by oath or affirmation that they are not enrolled in a party and the number of signatures of voters must be at least 25 and not more than 40 on a nomination petition for a candidate in each district subdivision. The election must be conducted and the results determined as provided for in the election of county commissioners in section 61. Costs for reproduction and distribution of ballots must be paid by Knox County. [PL 1991, c. 257 (NEW).]

C. The budget committee shall elect annually a chair from among its members. [PL 1991, c. 257 (NEW).]

D. A vacancy occurring on the budget committee must be filled by the committee, subject to confirmation by a majority of the county commissioners, for the balance of the unexpired term. The person appointed to fill the vacant office must be from the same district or unorganized territory as the person vacating the office. [PL 2005, c. 105, §1 (AMD).]

E. Members serve without compensation. [PL 1993, c. 345, §1 (AMD).]

F. The county budget committee shall review the itemized estimated budget prepared by the county commissioners, prepare a proposed budget and after a public hearing approve a final budget. [PL 1991, c. 257 (NEW).]

[PL 2007, c. 663, §6 (AMD).]

SECTION HISTORY

PL 1991, c. 257 (NEW). PL 1991, c. 548, §C4 (AMD). PL 1993, c. 345, §1 (AMD). PL 2005, c. 105, §1 (AMD). PL 2007, c. 663, §6 (AMD).

§752. Budget committee organization

The budget committee shall conduct its meetings in public at county buildings. The county commissioners shall direct the county clerk to call an organizational meeting of the budget committee no later than 60 days before the end of the county's fiscal year. The county commissioners shall provide the committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information. The budget committee shall select from among its members a chair, vice-chair and secretary. The budget committee shall adopt its own rules or procedures and bylaws. [PL 1991, c. 257 (NEW).]

SECTION HISTORY

PL 1991, c. 257 (NEW).

§753. Budget procedures

1. Proposed budget. The county commissioners shall submit an itemized estimated budget, as described in sections 701, 702 and 7503, in the form of a budget, to the budget committee in a timely fashion no later than 60 days before the end of the county's fiscal year. The county commissioners must identify in the itemized estimated budget all revenue sources, including balances in reserve accounts and other such funds, used in arriving at their budget estimates.

[PL 1993, c. 345, §2 (AMD).]

2. Budget review process. The budget committee shall review the itemized estimated budget prepared by the county commissioners, together with any supplementary material prepared by each county department or provided by any independent board or institution or another governmental agency. The budget committee may use the surplus balance in any reserve account retained by the county after the purposes for which the account was created are accomplished or abandoned to reduce the county tax levy in the same manner as county commissioners are authorized to do under section 921. The budget committee shall prepare a proposed budget and may increase, decrease or alter the itemized estimated budget if:

A. The budget committee records in its minutes an explanation for any suggested change in the itemized estimated budget initially presented by the county commissioners; and [PL 1993, c. 345, §3 (AMD).]

B. The total estimated revenues, together with the amount of county tax to be levied, equals the total estimated expenditures in the proposed budget. [PL 1991, c. 257 (NEW).]

[PL 1993, c. 345, §3 (AMD).]

3. Public hearing. The budget committee shall hold a public hearing in the county on its proposed budget before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing must be given at least 10 days before the hearing in all newspapers of general circulation within the county. Written notice and a copy of the proposed budget must be sent by mail or delivered in person to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the receipt of the proposed budget.

[PL 1991, c. 257 (NEW).]

4. Finality of budget. After the public hearing is completed, the budget committee shall adopt a final budget and transmit that budget to the county commissioners. The county commissioners may not further increase, decrease, alter or revise the budget as adopted by the budget committee, except by unanimous vote of the county commissioners. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership. Those actions are final and are not subject to further action by either the county commissioners or the budget committee.

[PL 1991, c. 257 (NEW).]

5. Assessment of taxes. The budget as adopted and changed under subsection 4 is the final authorization for the assessment of county taxes. The approved final budget must be sent to the county commissioners and the county tax authorized is apportioned and collected in accordance with section 706.

[PL 1991, c. 257 (NEW).]

6. Interim budget. Until a budget is finally approved, the county shall operate on an interim budget that may not exceed the previous year's budget.

[PL 1991, c. 257 (NEW).]

7. Transfer of funds. The county commissioners may transfer funds as provided in section 922.

[PL 1991, c. 257 (NEW).]

SECTION HISTORY

PL 1991, c. 257 (NEW). PL 1993, c. 345, §§2,3 (AMD).

§754. Budget amendments

The approved final budget governs the expenditures of the county during the fiscal year. Expenses may not be incurred in excess of those shown in the approved final budget. The budget may be revised if the county commissioners prepare and submit a proposed budget amendment to the budget committee for approval. The amended budget becomes effective only after the budget committee has approved the amendment. A report of an approval of a budget amendment must be transmitted to the State Auditor within 15 days of that approval by the budget committee. [PL 1991, c. 257 (NEW).]

SECTION HISTORY

PL 1991, c. 257 (NEW).

§755. Filing of county budget

A copy of the approved final budget and subsequent budget amendments must be filed on forms approved by the Office of the State Auditor with the State Auditor who shall retain them for 3 years. [PL 1991, c. 257 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1991, c. 257 (NEW). PL 2013, c. 16, §10 (REV).

§756. Initial budget committee selection; process

(REPEALED)

SECTION HISTORY

PL 1991, c. 257 (NEW). PL 1991, c. 548, §C5 (AMD). PL 1993, c. 345, §4 (RP).

§757. Budget committee membership districts

1. Redistricting process. The county commissioners shall prepare a redistricting plan for county budget committee seats by June 1, 2021 and every 10 years thereafter. The county commissioners shall submit the plan to the Secretary of State within 5 days of adoption. The Secretary of State shall immediately transmit the redistricting plan to the Legislature for review and enactment. [PL 2013, c. 481, §1 (AMD).]

2. Budget committee districts. Budget committee members must be elected from districts as provided in this subsection.

A. District 1 consists of Isle au Haut, Matinicus Isle Plantation, North Haven, St. George, Friendship and the unorganized territory of Criehaven and elects one member. The initial term for District 1 expires on December 31, 2016. [PL 2017, c. 248, §8 (AMD).]

B. District 2 consists of South Thomaston, Vinalhaven and Owls Head and elects one member. The initial term for District 2 expires on December 31, 2014. [PL 2013, c. 481, §2 (RPR).]

C. District 3 consists of Rockland and elects 2 members at large. The initial term for District 3 expires on December 31, 2016. [PL 2013, c. 481, §2 (RPR).]

D. District 4 consists of Camden and elects one member. The initial term for District 4 expires on December 31, 2014. [PL 2013, c. 481, §2 (RPR).]

E. District 5 consists of Rockport and Hope and elects one member. The initial term for District 5 expires on December 31, 2016. [PL 2013, c. 481, §2 (RPR).]

F. District 6 consists of Appleton, Union and Washington and elects one member. The initial term for District 6 expires on December 31, 2014. [PL 2013, c. 481, §2 (RPR).]

G. District 7 consists of Warren and elects one member. The initial term for District 7 expires on December 31, 2016. [PL 2013, c. 481, §2 (RPR).]

H. District 8 consists of Thomaston and Cushing and elects one member. The initial term for District 8 expires on December 31, 2014. [PL 2013, c. 481, §2 (RPR).]

[PL 2017, c. 248, §8 (AMD).]

3. District 3.

[PL 1993, c. 345, §5 (RP).]

4. District 4.

[PL 1993, c. 345, §5 (RP).]

5. District 5.

[PL 1993, c. 345, §5 (RP).]

6. District 6.

[PL 1993, c. 345, §5 (RP).]

7. District 7.

[PL 1993, c. 345, §5 (RP).]

8. District 8.

[PL 1993, c. 345, §5 (RP).]

SECTION HISTORY

PL 1991, c. 257 (NEW). PL 1991, c. 548, §C6 (AMD). PL 1993, c. 345, §5 (RPR). PL 1993, c. 565, §1 (RPR). PL 2013, c. 481, §§1, 2 (AMD). PL 2017, c. 248, §8 (AMD).

ARTICLE 4-B

HANCOCK COUNTY BUDGET ADVISORY COMMITTEE

§761. Budget; appropriations; approval

Notwithstanding sections 2, 701 and 702, in Hancock County the county commissioners may appropriate money, according to a budget, which must be approved by a majority of the county commissioners. [PL 1991, c. 749, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 749, §1 (NEW).

§762. Interim budget

If the budget is not approved before the start of a fiscal year, the county shall operate on an interim budget, which may not exceed 80% of the previous year's budget, until a budget is finally adopted. [PL 1991, c. 749, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 749, §1 (NEW).

§763. Advisory committee

There is established the Hancock County Budget Advisory Committee as provided in this section. [PL 1991, c. 749, §1 (NEW).]

1. Budget committee membership; election; term. The budget advisory committee consists of 10 members, 3 members from each commissioner district selected as provided for in this section and a member of the Hancock County legislative delegation. Of the 3 members from each commissioner district, 2 must be municipal officers in the district and one must be either a municipal officer in the district or a member of the public who is a resident of the commissioner district.

A. No later than 100 days before the start of a fiscal year, the county commissioners shall notify all municipal officers in the county and the public to caucus by county commissioner districts at a specified date, time and place for the purpose of electing either one municipal officer or one representative of the public from each district as a member of the budget advisory committee. The county commissioner shall serve as nonvoting moderator for that district caucus. Nominations for either the municipal officer member or the public member must be received from the floor. The nominee for the category of member being chosen receiving the most votes is approved as a budget advisory committee member. The names of those elected by the caucus must be recorded and forwarded to the county commissioners. [PL 2007, c. 663, §7 (AMD).]

B. Budget advisory committee members serve 3-year terms and no more than one member from each municipality may serve at a time. If a budget advisory committee member who is elected as a municipal officer member ceases to be a municipal officer during the term of membership, that committee member vacates membership and the next district caucus shall elect a qualified municipal officer to serve for the remainder of the unexpired term. [PL 1999, c. 440, §1 (AMD).]

C. The county commissioners shall give public notice of the commissioner district caucuses at which budget advisory committee members are to be elected in the manner provided for town meetings in chapter 121. [PL 1999, c. 440, §1 (NEW).]

[PL 2007, c. 663, §7 (AMD).]

2. Legislative member. The Hancock County legislative delegation shall annually select one member of the delegation who resides in Hancock County to serve on the budget advisory committee. [PL 1991, c. 749, §1 (NEW).]

3. Chair. The budget advisory committee shall annually select one of its members to chair the committee.

[PL 1991, c. 749, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 749, §1 (NEW). PL 1993, c. 227, §1 (AMD). PL 1999, c. 440, §1 (AMD). PL 2007, c. 663, §7 (AMD).

§764. Public hearing

The Hancock County commissioners shall hold a public hearing on the budget estimate at least 90 days before the end of the county's fiscal year and an informational meeting on the advisory committee's budget estimates at least 30 days before the end of the county's fiscal year. Pursuant to the requirements of section 701, subsection 3, written notice and a copy of the estimates must be sent by mail or delivered in person to each member of the county legislative delegation at least 10 days before the informational meeting on the annual budget. [PL 2007, c. 663, §8 (AMD).]

SECTION HISTORY

PL 1991, c. 749, §1 (NEW). PL 1999, c. 83, §1 (AMD). PL 2007, c. 663, §8 (AMD).

§765. Budget estimate; submission to advisory committee

The Hancock County commissioners shall submit a budget estimate to the budget advisory committee no later than 90 days before the end of the county's fiscal year for the coming year. The budget advisory committee shall review the budget estimate and make recommendations to the commissioners at least 45 days before the end of the county's fiscal year. In order to deviate from any recommendation made by a recorded 2/3 majority vote of the full membership of the budget advisory committee, the county commissioners must unanimously approve that change. The county commissioners shall act on the budget no later than 15 days before the end of the county's fiscal year. [PL 2007, c. 663, §9 (AMD).]

SECTION HISTORY

PL 1991, c. 749, §1 (NEW). PL 1993, c. 227, §2 (AMD). PL 1995, c. 147, §1 (AMD). PL 2007, c. 663, §9 (AMD).

§766. Final budget estimates; filing

A copy of the final budget estimates must be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1991, c. 749, §1 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1991, c. 749, §1 (NEW). PL 2013, c. 16, §10 (REV).

ARTICLE 5

KENNEBEC COUNTY BUDGET ADVISORY COMMITTEE

§771. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§772. Kennebec County Budget Advisory Committee

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§773. Budget advisory committee organization

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§774. Budget procedures

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§775. Budget amendments

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§776. Filing of county budget

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§777. Repeal

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A12,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 5-A

LINCOLN COUNTY BUDGET

§791. Budget; appropriations; approval

Notwithstanding sections 2, 701 and 702, in Lincoln County the county commissioners may appropriate money, according to a budget, which must be approved by a majority of the county commissioners. [PL 1989, c. 718 (NEW).]

SECTION HISTORY

PL 1989, c. 718 (NEW).

§792. Interim budget

If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget which may not exceed 80% of the previous year's budget. [PL 1989, c. 718 (NEW).]

SECTION HISTORY

PL 1989, c. 718 (NEW).

§793. Advisory committee

There is established a Lincoln County Budget Advisory Committee as provided in this section. [PL 1989, c. 718 (NEW).]

1. Municipal officers; election; term. The municipal officers from each county commissioner district shall choose the budget committee members by the following procedure.

A. No later than 100 days before the end of the county's fiscal year, the county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of electing at least one municipal officer from each district as a member of the county budget committee except, in 1990, at least 3 municipal officers must be selected from each district. The county commissioner shall serve as nonvoting moderator for that district caucus. Nominations must be received from the floor. The nominee receiving the most votes is approved as a budget committee member except, in 1990, each caucus shall elect 3 members. The names of those elected by the caucus must be recorded and forwarded to the county commissioners. [PL 2007, c. 663, §10 (AMD).]

B. Budget committee members serve 3-year terms except, in 1990, one member from each district must be elected for a one-year term, one for a 2-year term and one for a 3-year term. If a budget committee member ceases to be a municipal officer during the term of membership, the committee member vacates membership and the next district caucus shall elect a qualified municipal officer to serve for the remainder of the unexpired term. [PL 1989, c. 718 (NEW).]

[PL 2007, c. 663, §10 (AMD).]

2. Legislative member. The Lincoln County legislative delegation shall annually select one member of the delegation who resides in Lincoln County to serve on the budget committee.
[PL 1989, c. 718 (NEW).]

3. Chair. The budget committee shall annually select one of its members to chair the committee.
[PL 1989, c. 718 (NEW).]

SECTION HISTORY

PL 1989, c. 718 (NEW). PL 2007, c. 663, §10 (AMD).

§794. Public hearing

The Lincoln County commissioners shall hold one or more public hearings on the budget estimate no later than 90 days before the end of the county's fiscal year and an informational meeting, in conjunction with the advisory committee, with the Lincoln County legislative delegation no later than 30 days before the end of the county's fiscal year. [PL 2007, c. 663, §11 (AMD).]

SECTION HISTORY

PL 1989, c. 718 (NEW). PL 2007, c. 663, §11 (AMD).

§795. Budget estimate; submission to advisory committee

The Lincoln County commissioners shall submit a budget estimate to the advisory committee no later than 90 days before the end of the county's fiscal year for the coming year. The advisory committee shall review the budget estimate and make recommendations to the commissioners no later than 45 days before the end of the county's fiscal year. The county commissioners shall act on the budget in a timely fashion and, in any event, not later than 15 days before the end of the county's fiscal year. [PL 2007, c. 663, §12 (AMD).]

SECTION HISTORY

PL 1989, c. 718 (NEW). PL 2007, c. 663, §12 (AMD).

§796. Final budget estimates; filing

A copy of the final budget estimates shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1989, c. 718 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1989, c. 718 (NEW). PL 2013, c. 16, §10 (REV).

§797. Repeal

(REPEALED)

SECTION HISTORY

PL 1989, c. 718 (NEW). PL 1991, c. 749, §2 (RP).

ARTICLE 6

PISCATAQUIS COUNTY BUDGET COMMITTEE

§821. Purpose

The purpose of this article is to establish in Piscataquis County a method of appropriating money for county expenditures, including expenditures for municipal services in the unorganized territory, according to a budget, which must be reviewed by a budget committee. This article amends the statutory method in sections 701 and 702 by creating a committee with authority to review the budget and make recommendations to the county commissioners. The county commissioners have the authority to approve the budget. This article applies only to Piscataquis County. [PL 1995, c. 520, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 520, §1 (AMD).

§822. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. County commissioners. "County commissioners" means the elected county commissioners of Piscataquis County.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Municipal officials. "Municipal officials" may include the mayor, aldermen, councillors or manager of a city, the selectmen, councillors or manager of a town and the assessors of a plantation located in Piscataquis County.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Municipal officers. "Municipal officers" means the elected mayor, aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of a plantation located in Piscataquis County.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§823. Piscataquis County Budget Committee

In Piscataquis County there is established the Piscataquis County Budget Committee to carry out the purposes of this article. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Membership. The budget committee shall consist of 9 members, 3 members from each commissioner district selected at least 90 days before the end of the fiscal year as provided for in this section.

A. Of the 3 members from each commissioner district, one must be a municipal official and one must be a representative of the general public. All 3 members shall be appointed by the county commissioners.

One member of the general public on the committee must be a resident of the unorganized territories. No other member of the general public on the committee may be a resident of the unorganized territories. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. It is the responsibility of the county budget committee to review the budget and estimates, including the budget for municipal services in the unorganized territory prepared by the county commissioners, and to make recommendations concerning the budget and estimates. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The term of office is as follows:

(1) The member who is a municipal officer, appointed by the county commissioners, has an initial term of one year;

(2) The member who is a representative of the general public, appointed by the county commissioners, has an initial term of 2 years; and

(3) The 3rd member has an initial term of 3 years.

The terms of the respective members shall increase by one year at the time of reappointment, except the 3-year term, which shall become a one-year term. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. A vacancy occurring on the budget committee shall be filled in the same manner as the original appointment for the balance of the unexpired term. The person appointed to fill the vacant office must have the same qualifications as the person vacating the office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Members shall serve without compensation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§824. Budget committee organization

The budget committee shall conduct its meetings in public at the county courthouse. The county commissioners shall direct the county clerk to call an organizational meeting of the budget committee within 15 days after the county budget has been prepared by the county commissioners. The county commissioners shall provide the committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information. The budget committee shall select its own chairman, vice-chairman and secretary. The budget committee shall adopt its own rules or procedures and bylaws. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§825. Budget procedures

1. Proposed budget. The county commissioners shall submit itemized budget estimates, as described in sections 701, 702 and 7503, to the budget committee in a timely fashion, no later than 90 days before the end of the county's fiscal year.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Budget review process. The budget committee shall review the proposed itemized budgets prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board, institution or another governmental agency. The budget committee may make recommendations concerning any increase, decrease,

alteration or revision to the proposed budget. These activities must be done 60 days before the end of the county's fiscal year.
[PL 2007, c. 663, §13 (AMD).]

3. Meeting with legislative delegation.
[PL 1995, c. 520, §2 (RP).]

4. Public hearing. The county commissioners shall hold a public hearing in the county on the proposed budget at least 30 days before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing must be given at least 10 days before the hearing in all newspapers of general circulation within the county. Written notice and a copy of the proposed budget must be sent by mail or delivered in person to the clerk of each municipality in the county and to the members of the budget committee. The municipal clerk shall notify the municipal officials of the proposed budget and the date of the public hearing.
[PL 2007, c. 663, §13 (AMD).]

5. Adoption of budget. After the public hearing is completed, the county commissioners may further increase, decrease, alter and revise the proposed itemized budgets as long as:

A. The county commissioners enter into their minutes and submit to the budget committee a statement of their bases for any rejection of any recommendation of the budget committee; and [PL 2007, c. 663, §13 (AMD).]

B. The county commissioners hold a public meeting at least 21 days before the end of the county's fiscal year with the budget committee to discuss any rejections. [PL 2007, c. 663, §13 (AMD).]

The proposed itemized budget must be finally adopted by a majority vote of the county commissioners at a duly called meeting not later than 15 days before the end of the county's fiscal year.
[PL 2007, c. 663, §13 (AMD).]

6. Interim approval by legislative delegation.

[PL 1995, c. 520, §2 (RP).]

7. Final budget approval.

[PL 1995, c. 520, §2 (RP).]

8. Assessment of taxes. The budget is the final authorization for the assessment of county taxes. The budget must be sent to the county commissioners and the county tax authorized must be apportioned and collected in accordance with section 706. The budget for the unorganized territories must be sent to the State as provided by section 7503.
[PL 1995, c. 520, §3 (AMD).]

9. Interim budget. Until a budget is finally adopted, the county shall operate on an interim budget that may not exceed the previous year's budget.
[PL 2007, c. 663, §13 (AMD).]

10. Transfer of funds. The county commissioners may transfer funds as provided in section 922.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 520, §§2,3 (AMD). PL 2007, c. 663, §13 (AMD).

§826. Budget amendments

The approved budget shall govern the expenditures of the county during the fiscal year. No expenses may be incurred in excess of those shown in the approved budget, but the budget may be from

time to time revised by the preparation of a proposed amended budget by the county commissioners. This proposed amended budget must be submitted to the county budget committee for review. Any recommendations by this committee must be submitted within 10 calendar days. The amended budget takes effect when approved by the county commissioners. A report of the approval of an amended budget must be transmitted by the county commissioners to the State Auditor within 15 days of that approval. [PL 1995, c. 520, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 520, §4 (AMD).

§827. Filing of county budget

A copy of the final budget and subsequent amendments shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV).

ARTICLE 6-A

YORK COUNTY BUDGET COMMITTEE

§831. Committee established

There is established the York County Budget Committee, referred to in this article as the "budget committee," to carry out the purposes of this article. As used in this article, "county commissioners" means the county commissioners of York County and "county" means York County. [PL 1993, c. 623, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 623, §1 (NEW).

§832. Membership

The budget committee consists of 15 voting members and one nonvoting member selected as follows. [PL 1993, c. 623, §1 (NEW).]

1. Municipal and public representatives. No later than 100 days before the end of the county's fiscal year, elected municipal officials within each commissioner district shall caucus and elect representatives to the budget committee from that district for terms as provided in paragraph A. There must be 3 members from each commissioner district, 2 of whom are elected municipal officials and one of whom is a public representative. No more than one member may represent the same municipality at a time.

A. Members shall serve for 3-year terms, except that initially each district caucus shall select one member for a one-year term, one member for a 2-year term and one member for a 3-year term. If a committee member ceases to be a municipal officer or official during the term of membership, the committee member shall resign the membership and the next district caucus shall elect a qualified municipal officer or official to fill the membership for the remainder of the unexpired term. [PL 1993, c. 623, §1 (NEW).]

[PL 2007, c. 663, §14 (AMD).]

2. Legislative member. No later than 100 days before the end of the county's fiscal year, the York County legislative delegation shall elect one of the delegation's members to serve as a nonvoting member on the budget committee.
[PL 2007, c. 663, §14 (AMD).]

3. Committee chair. The budget committee shall select its own chair each year.
[PL 1993, c. 623, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 623, §1 (NEW). PL 2007, c. 663, §14 (AMD).

§833. Budget procedures

1. Budget procedures. The county commissioners shall submit itemized finance estimates in the form of a budget to the budget committee no later than 60 days before the end of the county's fiscal year.
[PL 1993, c. 623, §1 (NEW).]

2. Budget review process. The budget committee shall review the itemized estimated budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The budget committee shall prepare a proposed budget and may increase, decrease or alter the estimated budget as long as:

A. The budget committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 1993, c. 623, §1 (NEW).]

B. In the proposed budget, the total estimated revenues, together with the amount of county tax to be levied, equal the total estimated expenditures. [PL 1993, c. 623, §1 (NEW).]
[PL 1993, c. 623, §1 (NEW).]

3. Public hearing. The budget committee shall hold a public hearing in the county on the proposed budget before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing must be given in all newspapers of general circulation within the county at least 10 days before the hearing. Written notice and a copy of the proposed budget must be sent by mail, or delivered in person, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the proposed budget.
[PL 1993, c. 623, §1 (NEW).]

4. Adoption of budget; tax levy. After the public hearing is completed, the budget committee shall adopt a final budget and transmit that budget to the county commissioners.

A. The budget adopted by the budget committee may be changed only by a majority vote of the county commissioners and a majority vote of all elected members of the budget committee. Those actions are final and are not subject to further action by either the county commissioners or the budget committee. [PL 1993, c. 623, §1 (NEW).]

B. The budget adopted and changed under this subsection is the final authorization for the assessment of county taxes and the county tax authorized is apportioned and collected in accordance with section 706. [PL 1993, c. 623, §1 (NEW).]
[PL 1993, c. 623, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 623, §1 (NEW).

§834. Interim budget

If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget which may not exceed 80% of the previous year's budget. [PL 1993, c. 623, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 623, §1 (NEW).

§835. Filing of final budget

The budget committee shall file a copy of the final budget with the State Auditor on forms approved by the Office of the State Auditor. The State Auditor shall retain the forms for 3 years. [PL 1993, c. 623, §1 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1993, c. 623, §1 (NEW). PL 2013, c. 16, §10 (REV).

§836. Review

The joint standing committee of the Legislature having jurisdiction over state and local government matters may review the operation of the budget committee before February 1, 1997 and, if it determines necessary, introduce legislation to amend or repeal this article. If the committee fails to act, this article continues in effect. [PL 1993, c. 623, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 623, §1 (NEW).

ARTICLE 7

WALDO COUNTY BUDGET COMMITTEE

§851. Purpose

The purpose of this article is to establish in Waldo County a method of appropriating money for county expenditures, according to a budget, which must first receive approval of a budget committee. This article amends the statutory method in sections 2, 701 and 702 by transferring the authority of the Waldo County legislative delegation and the Legislature to approve the Waldo County budget to a committee comprised of Waldo County and municipal officials. This article applies only to Waldo County. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§852. Definitions

As used in this article, unless the context indicates otherwise, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. County commissioners. "County commissioners" means the county commissioners of Waldo County.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Municipal officers. "Municipal officers" means the mayor, councillors or selectmen.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§853. Waldo County Budget Committee

In Waldo County there is established a Waldo County Budget Committee to carry out the purposes of this article. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Membership. The budget committee shall consist of 9 members, 3 members from each commissioner district selected as provided for in this section. The county commissioners shall serve on the committee in an advisory capacity only and may not vote on any committee matters.

In 1987, and thereafter, at least 90 days before the end of every fiscal year, the members shall be elected by the following procedure.

A. The county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of nominating at least one municipal officer from each district as a candidate for the county budget committee; except that in 1987, at least 3 municipal officers shall be nominated from each district. A county commissioner shall serve as nonvoting moderator for his district's caucus. Nominations shall be received from the floor. The nominee receiving the most votes shall be approved. Any other nominees who receive a majority vote of those present shall also be approved. The names of those duly approved shall be recorded and forwarded to the county commissioners to be placed on a written ballot. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The county commissioners shall have written ballots printed with the names of those candidates selected in their districts under paragraph A. Each commissioner district shall require a separate ballot and each ballot shall specify each candidate's full name and municipality. The county commissioners shall distribute the appropriate ballots to each municipality within a commissioner district. The municipal officers shall vote as a board for one budget committee member from the candidates on the ballot and return the ballot to the county commissioners by a certain date, except that in 1987, the municipal officers shall vote as a board for 3 budget committee members. The ballots shall be counted at a regular meeting of the county commissioners. Each vote shall be weighted according to that municipality's population as a proportion of the district's total population, except that no municipality may have more than one budget committee member. The county commissioners shall notify each municipality, in writing, of the results of the election and shall certify the results to the Secretary of State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties. The county budget committee shall review the budget estimates prepared by the county commissioners and approve a final county budget.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Term of office. The term of office shall be 3 years, provided that a budget committee member remains a municipal officer in the municipal officer's municipality, except that of those elected in 1987,

one from each district shall be elected for a term of 3 years; one from each district shall be elected for a term of 2 years; and one from each district shall be elected for a term of one year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Vacancies. A vacancy occurring on the budget committee must be filled by the committee for the balance of the unexpired term. The person appointed to fill the vacant office must be a municipal officer from the same municipality as the person vacating the office. If the municipality of the person vacating the office declines to send a new member, the committee may solicit another municipality in the same district as the municipality of the vacating member that does not have a member sitting on the committee to send a municipal officer to fill the vacancy.
[PL 2017, c. 78, §1 (AMD).]

5. Expenses. Members shall serve without compensation, but shall be reimbursed from the county treasury for expenses lawfully incurred by them in the performance of their duties.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 78, §1 (AMD).

§854. Budget committee organization

The budget committee shall conduct its meetings in public at the county courthouse. The county commissioners shall direct the county clerk to call an organizational meeting of the budget committee no later than 60 days before the end of the county's fiscal year. The county commissioners shall provide the committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information. The budget committee shall adopt its own rules or procedures and bylaws. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§855. Budget procedures

1. Proposed budget. The county commissioners shall submit an itemized budget estimate, as described in sections 701 and 702, to the budget committee in a timely fashion, no later than 60 days before the end of the county's fiscal year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Budget review process. The budget committee shall review the proposed itemized budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The budget committee may increase, decrease, alter or revise the proposed budget, provided that:

A. The budget committee shall enter into its minutes an explanation for any change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The total estimated revenues, together with the amount of county tax to be levied, must equal the total estimated expenditures. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Public hearing. The budget committee shall hold a public hearing in the county on the proposed budget before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing shall be given at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the proposed budget shall be sent by registered or certified mail with return receipt requested, or delivered in person, with proof received of the delivery, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officers of the proposed budget.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Adoption of budget. After the public hearing is completed, the budget committee may further increase, decrease, alter and revise the proposed itemized budget, subject to the conditions and restrictions imposed in subsection 2. The proposed itemized budget must be finally adopted by a majority vote of the budget committee at a duly called meeting not later than the end of the county's fiscal year. The approved budget is the final authorization for the assessment of county taxes. The budget shall be sent to the county commissioners and the county tax authorized shall be apportioned and collected in accordance with section 706.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Interim budget. If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget which may not exceed the previous year's budget.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Transfer of funds. The county commissioners may transfer funds as provided in section 922.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§856. Budget amendments

The approved budget shall govern the expenditures of the county during the fiscal year. No expenses may be incurred in excess of those shown in the approved budget, but the budget may be revised from time to time by the preparation and submission of a proposed amended budget by the county commissioners to the budget committee. The budget committee shall render, not less than 15 calendar days, except in emergencies, nor more than 30 days after the submission to it, a decision on any such revised budget. An approved revised budget shall be transmitted to the State Auditor within 15 days of the budget committee's action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§857. Filing of county budget

A copy of the final budget and subsequent amendments shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV).

ARTICLE 8

KENNEBEC COUNTY BUDGET COMMITTEE

§861. Definitions

As used in this article, unless the context indicates otherwise, the following terms have the following meanings. [PL 1989, c. 473 (NEW).]

1. County commissioners. "County commissioners" means the county commissioners of Kennebec County.
[PL 1989, c. 473 (NEW).]

2. Municipal officers.

[PL 1991, c. 533, §2 (RP); PL 1991, c. 533, §10 (AFF).]

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 1991, c. 533, §2 (AMD). PL 1991, c. 533, §10 (AFF).

§862. Kennebec County Budget Committee

In Kennebec County there is established the Kennebec County Budget Committee to carry out the purposes of this article. The budget committee consists of 9 elected or appointed municipal officials and a subcommittee of 6 nonvoting members of the county legislative delegation or their designees as provided in this section. [PL 2001, c. 471, Pt. B, §16 (AMD); PL 2001, c. 471, Pt. B, §18 (AFF).]

1. Municipal representatives. No later than 100 days before the end of the county's fiscal year, municipal officers within each commissioner district shall caucus and elect members from that district for terms as provided in paragraph A. There must be 3 members from each commissioner district, 2 of whom are municipal officers and one of whom may be a municipal official who is not a municipal officer as defined in section 2001. No more than one member may represent the same municipality at one time.

A. Members serve for 3-year terms, except that initially each district caucus selects one member for a one-year term, one member for a 2-year term and one member for a 3-year term. If a budget committee member ceases to be a municipal officer or official during the term of membership, that member shall resign the membership and the next district caucus shall elect a qualified municipal officer or official to fill the membership for the remainder of the unexpired term. [PL 2001, c. 471, Pt. B, §17 (RPR); PL 2001, c. 471, Pt. B, §18 (AFF).]

B. [PL 1991, c. 533, §3 (RP); PL 1991, c. 533, §10 (AFF).]
[PL 2007, c. 663, §15 (AMD).]

1-A. Membership; legislative delegation. A subcommittee of 6 members of the Kennebec County legislative delegation or their designees shall serve as nonvoting members of the budget committee.

A. The subcommittee is appointed by the chair and must be ratified by a vote of the legislative delegation. [PL 1991, c. 533, §3 (NEW); PL 1991, c. 533, §10 (AFF).]

B. The subcommittee shall serve as a resource to the budget committee and as a liaison to the legislative delegation. [PL 2001, c. 170, §2 (AMD).]

[PL 2001, c. 170, §2 (AMD).]

1-B. Initial election.

[PL 2001, c. 170, §2 (RP).]

2. Duties. The budget committee shall review the budget estimates prepared by the county commissioners, hold public hearings in the county and submit their recommendations to the county commissioners.

[PL 2001, c. 170, §2 (AMD).]

3. Term of office. The term of office for a budget committee member who is an elected official is 3 years, provided that a budget committee member remains an elected official in the elected official's municipality.

[PL 2001, c. 170, §2 (AMD).]

4. Vacancies. The county commissioners shall appoint an elected official to fill any vacancy occurring on the budget committee. A vacancy must be filled from the commissioner district in which the vacancy occurred and is for the balance of the unexpired term.

[PL 2001, c. 170, §2 (AMD).]

5. Expenses. Members are not entitled to compensation, but must be reimbursed at the county rate from the county treasury for expenses authorized by the county commissioners that are lawfully incurred in the performance of their duties.

[PL 1991, c. 533, §3 (AMD); PL 1991, c. 533, §10 (AFF).]

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 1991, c. 533, §3 (AMD). PL 1991, c. 533, §10 (AFF). PL 2001, c. 170, §2 (AMD). PL 2001, c. 172, §1 (AMD). PL 2001, c. 471, §§B16,17 (AMD). PL 2001, c. 471, §B18 (AFF). PL 2007, c. 663, §15 (AMD).

§863. Budget committee organization

The budget committee shall organize and conduct its meetings as follows. [PL 2001, c. 170, §3 (AMD).]

1. Organization. The county commissioners shall direct the county clerk to call an organizational meeting of the budget committee no later than 60 days before the end of the county's fiscal year. At the organizational meeting, the committee shall:

A. Elect a chair and a recording secretary from among its members; and [PL 1991, c. 533, §4 (NEW); PL 1991, c. 533, §10 (AFF).]

B. Adopt rules, procedures and bylaws. [PL 1991, c. 533, §4 (NEW); PL 1991, c. 533, §10 (AFF).]

[PL 2001, c. 170, §3 (AMD).]

2. Meetings. The budget committee shall determine the time and location of the budget committee meetings. The meetings must be held at times convenient for the public. The budget committee shall

keep minutes and record votes for every meeting. The county clerk shall issue a public notice of a meeting no later than 7 days before the meeting is held.
[PL 2001, c. 170, §3 (AMD).]

3. Resources. The county commissioners shall provide the budget committee with necessary clerical assistance, office expenses and suitable meeting space, as well as access to county files and information.
[PL 2001, c. 170, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 1991, c. 533, §4 (RPR). PL 1991, c. 533, §10 (AFF). PL 2001, c. 170, §3 (AMD).

§864. Budget procedures

1. Commissioners' budget. The county commissioners shall submit an itemized budget estimate, as described in sections 701, 702 and 7503, to the budget committee in a timely fashion, no later than 60 days before the end of the county's fiscal year.
[PL 2001, c. 170, §4 (AMD).]

2. Budget review process. The budget committee shall develop a proposed budget following review of the itemized budget estimate prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The budget committee may propose that the budget estimate be increased, decreased, altered or revised, provided that:

A. The budget committee enters into its minutes an explanation for any recommended change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 2001, c. 170, §4 (AMD).]

B. The total estimated revenues, together with the amount of county tax to be levied, equals the total estimated expenditures. [PL 1991, c. 533, §5 (AMD); PL 1991, c. 533, §10 (AFF).]
[PL 2001, c. 170, §4 (AMD).]

3. Public hearing. The budget committee shall hold at least 2 public hearings in the county on the proposed budget before the end of the county's fiscal year and before submitting the budget to the commissioners. At least one public hearing must be held in the northern part of the county and at least one public hearing must be held in the southern part of the county. Notice of the hearing must be given at least 10 days before the hearing in a newspaper of general circulation within the county.
[PL 2001, c. 170, §4 (AMD).]

3-A. Written notification. Written notice and a copy of the proposed budget must be sent at least 10 days before the public hearing to the clerk of each municipality in the county. The municipal clerk shall notify the elected officials of the proposed budget.
[PL 1991, c. 533, §6 (NEW); PL 1991, c. 533, §10 (AFF).]

4. Approval of budget. After the public hearings are completed, the budget committee shall adopt a final budget and shall submit that budget to the county commissioners for review not later than the end of the county's fiscal year, subject to the conditions and restrictions imposed in subsection 2. The county commissioners may not revise the budget adopted by the budget committee except by unanimous vote of the county commissioners. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership. Those actions are final and are not subject to further action by either the county commissioners or the budget committee.
[PL 2001, c. 170, §4 (AMD).]

4-A. Legislative approval.

[PL 2001, c. 170, §4 (RP).]

5. Interim budget. If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget that may not exceed the previous year's budget.
[PL 2001, c. 170, §4 (AMD).]

6. Transfer of funds. The county commissioners may transfer funds as provided in section 922.
[PL 1989, c. 473 (NEW).]

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 1991, c. 533, §§5-8 (AMD). PL 1991, c. 533, §10 (AFF). PL 2001, c. 170, §4 (AMD).

§865. Budget amendments

(REPEALED)

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 1991, c. 533, §9 (RP). PL 1991, c. 533, §10 (AFF).

§866. Filing of county budget

A copy of the final budget and subsequent amendments shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1989, c. 473 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 2013, c. 16, §10 (REV).

§867. Repeal

(REPEALED)

SECTION HISTORY

PL 1989, c. 473 (NEW). PL 1991, c. 533, §9 (RP). PL 1991, c. 533, §10 (AFF).

ARTICLE 9

FRANKLIN COUNTY BUDGET

§871. Budget; appropriations; approval

Notwithstanding sections 2, 701 and 702, in Franklin County the county commissioners may appropriate money, according to a budget which must be approved by a majority of the county commissioners. [PL 1991, c. 495 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (COR). PL 1991, c. 204, §2 (NEW). PL 1991, c. 495 (NEW).

§872. Interim budget

If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget which may not exceed 80% of the previous year's budget.
[PL 1991, c. 495 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (COR). PL 1991, c. 204, §2 (NEW). PL 1991, c. 495 (NEW).

§873. Advisory committee

There is established a Franklin County Budget Advisory Committee comprised as follows. [PL 1991, c. 495 (NEW).]

1. Municipal officers. Municipal officers within each commissioner district shall caucus and shall elect municipal officers from that district to fill vacancies as they arise, for terms as provided in paragraph A.

A. Members shall serve for 3-year terms, except that initially each district caucus shall select one member for a one-year term, one member for a 2-year term and one member for a 3-year term. There must be 3 members from each commissioner district. If a committee member ceases to be a municipal officer during the term of membership, the committee member shall resign the membership and the next district caucus shall elect a qualified municipal officer to fill the membership for the remainder of the unexpired term. [PL 1991, c. 495 (NEW).]

[PL 1991, c. 495 (NEW).]

2. Legislative member. The Franklin County legislative delegation shall select one of the delegation's members to serve as a nonvoting member on the committee.

[PL 1991, c. 495 (NEW).]

3. Committee chair. The committee shall select its own chair each year.

[PL 1991, c. 495 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (COR). PL 1991, c. 204, §2 (NEW). PL 1991, c. 495 (NEW).

§874. Budget procedures

1. Budget procedures. The Franklin County commissioners shall submit itemized finance estimates in the form of a budget to the advisory committee no later than 60 days before the end of the county's fiscal year.

[PL 1991, c. 495 (NEW).]

2. Budget review process. The advisory committee shall review the itemized estimated budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or another governmental agency. The advisory committee shall prepare a proposed budget and may increase, decrease or alter the estimated budget as long as:

A. The advisory committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 1991, c. 495 (NEW).]

B. In the proposed budget, the total estimated revenues, together with the amount of county tax to be levied, equal the total estimated expenditures. [PL 1991, c. 495 (NEW).]

[PL 1991, c. 495 (NEW).]

3. Public hearing. The advisory committee shall hold a public hearing in the county on the proposed budget before the end of the county's fiscal year and before the final adoption of the budget. Notice of the hearing must be given in all newspapers of general circulation within the county at least 10 days before the hearing. Written notice and a copy of the proposed budget must be sent by mail, or delivered in person, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the proposed budget.

[PL 1991, c. 495 (NEW).]

4. Finality of budget. After the public hearing is completed, the advisory committee shall adopt a final budget and transmit that budget to the county commissioners. The county commissioners may

not further increase, decrease, alter or revise the budget adopted by the advisory committee, except by unanimous vote of the county commissioners. If the adopted budget is changed by the county commissioners, the advisory committee may reject that change by a 2/3 vote of its membership. Those actions are final and are not subject to further action by either the county commissioners or the advisory committee.
[PL 1991, c. 495 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (COR). PL 1991, c. 204, §2 (NEW). PL 1991, c. 495 (NEW).

§875. Filing of final budget

A copy of the final budget must be filed with the State Auditor on forms approved by the Office of the State Auditor. The State Auditor shall retain the forms for 3 years. [PL 1991, c. 495 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1991, c. 495 (NEW). PL 2013, c. 16, §10 (REV).

§876. Repeal

(REPEALED)

SECTION HISTORY

PL 1991, c. 495 (NEW). PL 1993, c. 449, §1 (RP).

ARTICLE 10

SAGADAHOC COUNTY BUDGET ADVISORY COMMITTEE

§881. Budget; appropriations; approval

Notwithstanding sections 2, 701 and 702, in Sagadahoc County the county commissioners may appropriate money according to a budget that must be approved by a majority of the county commissioners. [PL 1991, c. 513 (NEW).]

SECTION HISTORY

PL 1991, c. 513 (NEW).

§882. Interim budget

If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget that may not exceed 80% of the previous year's budget. [PL 1991, c. 513 (NEW).]

SECTION HISTORY

PL 1991, c. 513 (NEW).

§883. Advisory committee

There is established a Sagadahoc County Budget Advisory Committee as provided in this section. [PL 1991, c. 513 (NEW).]

1. Budget advisory committee membership. The municipal officers from each county commissioner district shall choose the budget advisory committee members by the following procedure.

A. The budget advisory committee consists of 9 members: two municipal officers from each of the 3 county commissioner districts and one representative of the general public from each of the 3 county commissioner districts. Budget advisory committee members serve 3-year terms, except for the initial members whose terms are provided in subsection 2, paragraph B. If a budget advisory committee member who is elected as a municipal officer ceases to be a municipal officer during the term of membership, that committee member shall vacate membership.

(1) If a budget advisory committee member who is elected as a municipal officer vacates, resigns or is unable to complete the term of office to which that member was elected, the next district caucus shall elect a municipal officer to serve for the remainder of the unexpired term.

(2) If a budget advisory committee member who is a representative of the general public resigns or is unable to complete the term of office to which that member was elected, the next district caucus shall elect a representative of the general public to serve for the remainder of the unexpired term. [PL 1991, c. 513 (NEW).]

B. The budget advisory committee shall select annually one of its members to chair the committee. [PL 1991, c. 513 (NEW).]

[PL 1991, c. 513 (NEW).]

2. Election. The election of the budget advisory committee members is as follows:

A. No later than 135 days before the end of the county's fiscal year, the county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of electing the membership of the county budget advisory committee. Whenever a public member of the budget advisory committee will be elected, the county commissioners must issue a public notice of that fact that includes the date, time and place of the caucus. The county commissioner shall serve as nonvoting moderator for that commissioner's district caucus. Nominations must be received from the floor. The nominee receiving the most votes is approved as a budget advisory committee member and serves a term of 3 years, except as provided in paragraph B. [PL 2007, c. 663, §16 (AMD).]

B. In 1991, each caucus shall elect 3 members whose terms are as follows.

(1) One of the members who is a municipal officer shall serve an initial term of one year.

(2) One of the members who is a municipal officer shall serve an initial term of 2 years.

(3) The member who is a representative of the general public shall serve an initial term of 3 years. [PL 1991, c. 513 (NEW).]

[PL 2001, c. 143, §1 (AMD); PL 2001, c. 143, §4 (AFF); PL 2007, c. 663, §16 (AMD).]

SECTION HISTORY

PL 1991, c. 513 (NEW). PL 2001, c. 143, §1 (AMD). PL 2001, c. 143, §4 (AFF). PL 2007, c. 663, §16 (AMD).

§884. Budget estimate; submission to advisory committee

The Sagadahoc County commissioners shall submit a budget estimate to the advisory committee no later than 90 days before the end of the county's fiscal year for the coming fiscal year. The advisory committee shall review the budget estimate, hold a public hearing on the budget estimate and make recommendations to the commissioners no later than 45 days before the end of the county's fiscal year. The county commissioners shall act on the budget in a timely fashion and, in any event, not later than 15 days prior to the beginning of the budget year. [PL 2007, c. 663, §17 (AMD).]

SECTION HISTORY

PL 1991, c. 513 (NEW). PL 2001, c. 143, §2 (AMD). PL 2001, c. 143, §4 (AFF). PL 2007, c. 663, §17 (AMD).

§885. Final budget estimates; filing

A copy of the final budget estimates must be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1991, c. 513 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1991, c. 513 (NEW). PL 2013, c. 16, §10 (REV).

§886. Repeal

(REPEALED)

SECTION HISTORY

PL 1991, c. 513 (NEW). PL 1993, c. 559, §1 (RP).

ARTICLE 11

OXFORD COUNTY BUDGET COMMITTEE

§891. Budget; appropriations and approval

Notwithstanding sections 2, 701 and 702, in Oxford County the county commissioners may appropriate money, according to a budget that must be prepared by the Oxford County Budget Advisory Committee. A unanimous vote of the county commissioners is required to change the budget as presented by the Oxford County Budget Advisory Committee. [PL 1991, c. 204, §2 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (RNU). PL 1991, c. 204, §2 (NEW).

§892. Advisory committee

This section establishes the Oxford County Budget Advisory Committee. [PL 1991, c. 204, §2 (NEW).]

1. Appointment. Each county commissioner shall appoint a municipal officer from the commissioner's respective county commissioner district at least 100 days before the end of the county's fiscal year.
[PL 2007, c. 663, §18 (AMD).]

2. Municipal officer elections. No later than 100 days before the end of the county's fiscal year, the county commissioners shall notify all municipal officers to caucus by county commissioner district at a specified date, time and place for the purpose of electing 2 municipal officers from each district as members of the county budget advisory committee. The county commissioner shall serve as nonvoting moderator for that district caucus. Nominations must be received from the floor. The 2 nominees receiving the most votes are the budget advisory committee members. The names of those elected by the caucus must be recorded and forwarded to the county commissioners. When the district meeting fails to produce 2 budget committee member nominees, the county commissioner of the district may appoint a municipal officer from that district to each vacant seat within 10 days of the district caucus. The county commissioner shall include notice of this appointment provision in the original notice to convene the caucus if the commissioner plans to exercise the appointment authority granted in this subsection. A municipality may not at any time have more than one representative serving on the budget advisory committee.
[PL 2007, c. 663, §19 (AMD).]

3. Vacancy; replacement. If a budget advisory committee member ceases to be a municipal officer during the term of membership, the committee member vacates membership and a replacement must be appointed by the county commissioner from the district in which the vacancy occurred.
[PL 1991, c. 204, §2 (NEW).]

4. Municipal officer; definition. The term "municipal officer," as it refers to the Oxford County Budget Advisory Committee in this section, means a selectman or council member.
[PL 1991, c. 204, §2 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (RNU). PL 1991, c. 204, §2 (NEW). PL 1999, c. 31, §1 (AMD). PL 2007, c. 663, §§18, 19 (AMD).

§893. Budget process

1. Public hearing. The Oxford County commissioners shall hold one or more public hearings on the budget estimate at times convenient for the residents of the county and no later than 60 days before the end of the county's fiscal year.
[PL 2007, c. 663, §20 (AMD).]

2. Budget estimate; submission to budget advisory committee. The Oxford County commissioners shall submit a budget estimate for the coming year to the budget advisory committee no later than 60 days before the end of the county's fiscal year. The budget advisory committee shall review the budget estimate and prepare the budget. The budget must be presented to the county commissioners no later than 30 days before the end of the county's fiscal year. The county commissioners shall act on the budget in a timely fashion, not later than the 3rd Tuesday in the last month of the fiscal year preceding the budget year. If the adopted budget is changed by the county commissioners, the budget advisory committee may reject that change by a 2/3 vote of its membership. Those actions are final and not subject to further action by either the county commissioners or the budget advisory committee.
[PL 2007, c. 663, §21 (AMD).]

3. Final budget; filing. A copy of the final budget must be filed on forms approved by the Office of the State Auditor. The State Auditor shall retain the budget for 3 years.
[PL 1991, c. 204, §2 (NEW); PL 2013, c. 16, §10 (REV).]

4. Interim budget. If the budget is not approved before the start of the fiscal year, the county must operate on an interim budget that does not exceed the budget of the previous year until a final budget is adopted.
[PL 1991, c. 204, §2 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (RNU). PL 1991, c. 204, §2 (NEW). PL 2005, c. 29, §1 (AMD). PL 2007, c. 663, §§20, 21 (AMD). PL 2013, c. 16, §10 (REV).

§894. Officers' salaries

The county commissioners shall set the salaries of all county officers with the exception of their own. The salaries of the county commissioners are set by the budget advisory committee. [PL 1991, c. 204, §2 (NEW).]

SECTION HISTORY

RR 1991, c. 1, §39 (RNU). PL 1991, c. 204, §2 (NEW).

ARTICLE 12

SOMERSET COUNTY BUDGET COMMITTEE

§895. Committee established

There is established the Somerset County Budget Committee, referred to in this article as the "budget committee," to carry out the purposes of this article. As used in this article, "county commissioners" means the county commissioners of Somerset County. [PL 1993, c. 582, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 582, §1 (NEW).

§896. Membership

The budget committee consists of 9 voting members selected as follows. [PL 2001, c. 150, §1 (AMD).]

1. Municipal representatives. No later than 100 days before the end of the county's fiscal year, municipal officers within each commissioner district shall caucus and elect members from that district for terms as provided in paragraph A. There must be 3 members from each commissioner district, 2 of whom are municipal officers and one of whom is a municipal official who is not a municipal officer as defined in section 2001. No more than one member may represent the same municipality at one time.

A. Members serve for 3-year terms, except that initially each district caucus selects one member for a one-year term, one member for a 2-year term and one member for a 3-year term. If a budget committee member ceases to be a municipal officer or official during the term of membership, that member shall resign the membership and the next district caucus shall elect a qualified municipal officer or official to fill the membership for the remainder of the unexpired term. [PL 1993, c. 582, §1 (NEW).]

[PL 2007, c. 663, §22 (AMD).]

2. Legislative member.

[PL 2001, c. 150, §2 (RP).]

3. Budget committee chair. The budget committee shall select its own chair each year.
[PL 1993, c. 582, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 582, §1 (NEW). PL 1995, c. 359, §1 (AMD). PL 1999, c. 49, §1 (AMD). PL 2001, c. 150, §§1,2 (AMD). PL 2007, c. 663, §22 (AMD).

§897. Budget procedures

1. Budget procedures. The county commissioners shall submit itemized finance estimates in the form of a budget to the budget committee no later than 60 days before the end of the county's fiscal year.
[PL 1993, c. 582, §1 (NEW).]

2. Budget review process. The budget committee shall review the itemized estimated budget prepared by the county commissioners, together with any supplementary material prepared by the head of each county department or provided by any independent board or institution or other governmental agency. The budget committee shall prepare a proposed budget and may increase, decrease or alter the estimated budget as long as:

A. The budget committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues as initially presented by the county commissioners; and [PL 1993, c. 582, §1 (NEW).]

B. In the proposed budget, the total estimated revenues, together with the amount of county tax to be levied, equal the total estimated expenditures. [PL 1993, c. 582, §1 (NEW).]

[PL 1993, c. 582, §1 (NEW).]

3. Public hearing. The budget committee shall hold a public hearing in the county on the proposed budget before the end of the county's fiscal year and before final adoption of the budget. Notice of the hearing must be given in all newspapers of general circulation within the county at least 10 days before the hearing. Written notice and a copy of the proposed budget must be sent by mail or delivered in person to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the proposed budget.

[PL 1993, c. 582, §1 (NEW).]

4. Adoption of budget; tax levy. After the public hearing is completed, the budget committee shall adopt a final budget and transmit that budget to the county commissioners.

A. The county commissioners may not further increase, decrease, alter or revise the budget adopted by the budget committee except by unanimous vote of the county commissioners. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership. The budget is final and not subject to further action by either the county commissioners or the budget committee upon failure of the commissioners to unanimously recommend changes in the budget transmitted from the budget committee or upon acceptance or rejection of changes by the budget committee. [PL 1993, c. 582, §1 (NEW).]

B. The budget adopted under this subsection is the final authorization for the assessment of county taxes and the county tax authorized is apportioned and collected in accordance with section 706. [PL 1993, c. 582, §1 (NEW).]

[PL 1993, c. 582, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 582, §1 (NEW).

§898. Interim budget

If the budget is not approved before the start of a fiscal year, until a budget is finally adopted, the county shall operate on an interim budget, which may not exceed the previous year's budget. [PL 2009, c. 576, §1 (AMD).]

SECTION HISTORY

PL 1993, c. 582, §1 (NEW). PL 2009, c. 576, §1 (AMD).

§899. Filing of final budget

The budget committee shall file a copy of the final budget with the State Auditor on forms approved by the Office of the State Auditor. The State Auditor shall retain the forms for 3 years. [PL 1993, c. 582, §1 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1993, c. 582, §1 (NEW). PL 2013, c. 16, §10 (REV).

§899-A. Review

The joint standing committee of the Legislature having jurisdiction over county government matters may review the operation of the budget committee before February 1, 1997 and, if it determines necessary, introduce legislation to amend or repeal this article. If the committee fails to act, this article continues in effect. [PL 1995, c. 462, Pt. A, §51 (NEW).]

SECTION HISTORY

PL 1995, c. 462, §A51 (NEW).

§900. Budget; appropriations; approval

Notwithstanding sections 2, 701 and 702, in Washington County the county commissioners may appropriate money according to a budget that must be approved by a majority of the county commissioners or as otherwise provided in this article. [PL 1997, c. 279, §1 (AMD).]

REVISOR'S NOTE: §900. Review (As enacted by PL 1993, c. 582, §1 was REPEALED by PL 1995, c. 462, Pt. A, §52)

SECTION HISTORY

PL 1991, c. 777, §1 (NEW). PL 1993, c. 582, §1 (NEW). PL 1995, c. 462, §A52 (RP). PL 1997, c. 279, §1 (AMD).

ARTICLE 13

WASHINGTON COUNTY BUDGET ADVISORY COMMITTEE

§900-A. Interim budget

If the budget is not approved before the start of a fiscal year, the county shall operate on an interim budget, that may not exceed 80% of the previous year's budget, until a budget is finally adopted. [PL 1991, c. 777, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 777, §1 (NEW).

§900-B. Advisory committee

There is established the Washington County Budget Advisory Committee as provided in this section. [PL 1991, c. 777, §1 (NEW).]

1. Municipal officers; election; term. The municipal officers from each county commissioner district shall choose the budget advisory committee members by the following procedure.

A. No later than 100 days before the end of the county's fiscal year, the county commissioners shall notify all municipal officers in the county to caucus by county commissioner districts at a specified date, time and place for the purpose of electing at least one municipal officer from each district as a member of the budget advisory committee; except that, in 1992, at least 3 municipal officers must be selected from each district unless the municipal officers of a district decide that another person from that district would be better qualified. A municipality may not be represented by more than one officer at a time. The county commissioner shall serve as nonvoting moderator for that district caucus. Nominations must be received from the floor. The nominee receiving the most votes is approved as a budget advisory committee member except that, in 1992, each caucus shall elect 3 members. The names of those elected by the caucus must be recorded and forwarded to the county commissioners. [PL 2007, c. 663, §23 (AMD).]

B. Budget advisory committee members serve 3-year terms except that, in 1992, one member from each district must be elected for a one-year term, one member for a 2-year term and one member for a 3-year term. If a budget advisory committee member ceases to be a municipal officer during the term of membership, that committee member vacates membership and the next district caucus shall elect a qualified municipal officer to serve for the remainder of the unexpired term. [PL 1991, c. 777, §1 (NEW).]

A municipal officer elected as a member of the budget advisory committee may name a designee to serve on the committee.
[PL 2007, c. 663, §23 (AMD).]

2. Legislative member. The Washington County legislative delegation shall annually select one member of the delegation who resides in Washington County to serve as a nonvoting member on the budget advisory committee.
[PL 2019, c. 23, §1 (AMD).]

3. Chair. The budget advisory committee shall annually select one of its members to chair the committee.
[PL 1991, c. 777, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 777, §1 (NEW). PL 1997, c. 171, §1 (AMD). PL 1997, c. 279, §2 (AMD). PL 2007, c. 663, §23 (AMD). PL 2019, c. 23, §1 (AMD).

§900-B-1. Prior year's budget available

No later than 100 days before the end of the county's fiscal year, the county commissioners shall publish, deliver to the budget advisory committee and make available to the public copies of a financial statement for the preceding county fiscal year showing funds authorized, including but not limited to revenues, unappropriated fund balances and reserve accounts, and expenditures made for each department, account and program and showing the balance in each account at the end of the fiscal year.
[PL 2007, c. 663, §24 (AMD).]

SECTION HISTORY

PL 1997, c. 279, §3 (NEW). PL 2007, c. 663, §24 (AMD).

§900-C. Public hearing

The Washington County commissioners shall hold one or more public hearings on the budget estimate no later than 90 days before the end of the county's fiscal year and an informational meeting, in conjunction with the budget advisory committee, with the Washington County legislative delegation no later than 30 days before the end of the county's fiscal year. [PL 2007, c. 663, §25 (AMD).]

SECTION HISTORY

PL 1991, c. 777, §1 (NEW). PL 2007, c. 663, §25 (AMD).

§900-D. Budget estimate; submission to advisory committee; legislative delegation role

The Washington County commissioners shall submit a budget estimate to the budget advisory committee no later than 90 days before the end of the county's fiscal year for the coming year. The budget advisory committee shall review the budget estimate and make recommendations to the commissioners no later than 45 days before the end of the county's fiscal year. The county commissioners shall act on the budget in a timely fashion and, in any event, not later than 15 days before the end of the county's fiscal year. If county commissioners wish to make changes in the budget recommended by the budget advisory committee, the county commissioners shall schedule one or more meetings with the budget advisory committee no later than 15 days before the end of the county's fiscal year for the purpose of negotiating a final budget. [PL 2007, c. 663, §26 (AMD).]

If, following negotiations, a final budget that is acceptable to the budget advisory committee is not approved by the county commissioners at least 15 days before the end of the county's fiscal year, the budget advisory committee shall adopt a final budget and transmit that budget to the county commissioners. The budget adopted by the budget advisory committee may be changed by a majority vote of the board of county commissioners. If the adopted budget is changed by the county commissioners, the budget advisory committee may reject that change by a 2/3 vote of its membership. The budget is final and not subject to further action by either the county commissioners or the budget advisory committee upon failure of the commissioners to recommend changes in the budget transmitted from the budget advisory committee or upon acceptance or rejection of changes by the budget advisory

committee. The entire budget approval process must be completed by the last day of the county's fiscal year. [PL 2007, c. 663, §26 (AMD).]

SECTION HISTORY

PL 1991, c. 777, §1 (NEW). PL 1997, c. 279, §4 (AMD). PL 2007, c. 663, §26 (AMD).

§900-E. Final budget estimates; filing

A copy of the final budget estimates must be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years. [PL 1991, c. 777, §1 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1991, c. 777, §1 (NEW). PL 2013, c. 16, §10 (REV).

ARTICLE 14

PENOBSCOT COUNTY BUDGET COMMITTEE

§900-F. Definitions

(REPEALED)

SECTION HISTORY

PL 1995, c. 682, §1 (NEW). PL 1997, c. 198, §1 (AMD). MRSA T. 30-A §900J (RP).

§900-G. Budget; appropriations and approval

(REPEALED)

SECTION HISTORY

PL 1995, c. 682, §1 (NEW). MRSA T. 30-A §900J (RP).

§900-H. Budget committee

(REPEALED)

SECTION HISTORY

PL 1995, c. 682, §1 (NEW). MRSA T. 30-A §900J (RP).

§900-I. Budget process

(REPEALED)

SECTION HISTORY

PL 1995, c. 682, §1 (NEW). PL 1997, c. 198, §2 (AMD). MRSA T. 30-A §900J (RP).

§900-J. Repeal

(REPEALED)

SECTION HISTORY

PL 1995, c. 682, §1 (NEW). PL 1999, c. 89, §1 (AMD). MRSA T. 30-A §900J (RP).

ARTICLE 15

PENOBSCOT COUNTY BUDGET COMMITTEE

§900-K. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 124, §1 (NEW).]

1. Budget committee. "Budget committee" means the Penobscot County Budget Committee.
[PL 2005, c. 124, §1 (NEW).]

2. Municipal official. "Municipal official" means any elected member of a municipal government in Penobscot County.
[PL 2005, c. 124, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 124, §1 (NEW).

§900-L. Budget; appropriations and approval

Notwithstanding sections 2, 701 and 702, in Penobscot County the county commissioners may appropriate money according to a budget that must be prepared and finalized in accordance with this article. [PL 2005, c. 124, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 124, §1 (NEW).

§900-M. Budget committee

There is established the Penobscot County Budget Committee to carry out the purposes of this article. [PL 2005, c. 124, §1 (NEW).]

1. Membership. The budget committee consists of the following members:

A. Two members elected from each commissioner district as provided in subsection 2; [PL 2005, c. 124, §1 (NEW).]

B. Two municipal officials appointed by each county commissioner from the commissioner's district; and [PL 2005, c. 124, §1 (NEW).]

C. One member of the county legislative delegation appointed by each county commissioner from the commissioner's district. [PL 2005, c. 124, §1 (NEW).]
[PL 2005, c. 124, §1 (NEW).]

2. Municipal official elections. No later than 75 days before the end of the county's fiscal year, the county commissioners shall notify all municipal officials to caucus by county commissioner district at a specified date, time and place for the purpose of electing one municipal official from each district as a member of the budget committee. Each county commissioner shall serve as nonvoting moderator for that district caucus. Nominations must be received from the floor. The nominee receiving the most votes is the budget committee member. The name of the member elected by the caucus must be recorded and forwarded to the county commissioners.
[PL 2007, c. 663, §27 (AMD).]

3. Term; vacancy; replacement. Budget committee members serve 2-year terms. If a budget committee member ceases to be a municipal official during the term of membership, the budget committee member vacates membership and a replacement must be appointed by the county commissioner from the district in which the vacancy occurred.
[PL 2005, c. 124, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 124, §1 (NEW). PL 2007, c. 663, §27 (AMD).

§900-N. Budget process

1. Public hearing. The county commissioners shall hold one or more public hearings on the budget at times convenient for the residents of the county and no later than 15 days before the end of the county's fiscal year.
[PL 2007, c. 663, §28 (AMD).]

2. Budget; submission to budget committee. The Penobscot County commissioners shall submit a budget for the coming year to the budget committee no later than 50 days before the end of the county's fiscal year. The budget committee shall review the budget with the county commissioners no later than 30 days before the end of the county's fiscal year and make additions or deletions to the budget by a majority vote of the budget committee. A unanimous vote of the county commissioners is required to override the budget committee.
[PL 2007, c. 663, §29 (AMD).]

3. Assessment of taxes. The budget adopted under subsection 2 is the final authorization for the assessment of county taxes. The county tax authorized is apportioned and collected in accordance with section 706.
[PL 2005, c. 124, §1 (NEW).]

4. Final budget; filing. A copy of the final budget must be filed on forms approved by the Office of the State Auditor with the State Auditor, who shall retain it for 3 years.
[PL 2005, c. 124, §1 (NEW); PL 2013, c. 16, §10 (REV).]

5. Interim budget. If the budget is not approved before the start of the fiscal year, the county must operate on an interim budget that does not exceed the budget of the previous year until a final budget is adopted.
[PL 2005, c. 124, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 124, §1 (NEW). PL 2007, c. 663, §§28, 29 (AMD). PL 2013, c. 16, §10 (REV).

SUBCHAPTER 2

COUNTY FISCAL MATTERS

ARTICLE 1

EXPENDITURES

§901. Insurance for firefighters

Any county may expend funds to be accounted for as other money of the county for the purchase of accident and disability insurance on a county-wide basis, protecting all persons whether part-time, full-time or on-call, and whether paid or unpaid, while acting as firefighters for any municipal fire department or incorporated volunteer fire association. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§902. Authority to operate a regional solid waste collection and disposal service

1. Authorization. The county commissioners of each county may operate a solid waste collection and disposal system or contract for solid waste collection and disposal services to serve their respective counties. The county commissioners may contract with municipalities, unorganized townships, other governmental agencies, including regional refuse disposal districts, and private enterprises for the financing, implementation and operation of collection and disposal services.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Municipalities and others served. A county solid waste collection and disposal system or service may serve municipalities, unorganized townships and other public and private producers of solid waste. The system or service may serve municipalities, unorganized townships and other public and private producers of solid waste in an adjoining county with the approval of the county commissioners of that county.

A county may not require municipalities, unorganized territories and other public or private producers to join or be served by the system or service.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Fees. Each municipality, unorganized territory and each public or private producer of solid waste using the solid waste collection and disposal system or service offered by the county shall be assessed for the cost of that service. These costs shall be prorated equitably among those served. In determining the costs, consideration shall be given to, but not limited to, the nature and quantity of solid waste collected and disposed of.

The county commissioners shall determine the amount of assessments annually. In the case of municipalities, the county commissioners shall include these assessments in their warrants to municipal assessors of the municipalities served, issued under section 706. In the case of unorganized territory, the county commissioners shall certify the amount of the assessments for the unorganized territory as provided in section 5903.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Personnel. County commissioners may not employ additional personnel solely for administrative and clerical purposes related to solid waste collection and disposal systems or services.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§903. Authority to contract for energy conservation improvements

1. Agreement with energy service and 3rd-party financing companies. County commissioners may enter into an agreement with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation improvements at county facilities.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Future operation. The county commissioners, at the termination of the agreement with the private party under this section, may acquire, operate and maintain the improvement, renew the agreement with the private party or make an agreement with another private party to operate and maintain the improvement.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Budgetary approval required. Expenditures by the county commissioners under this section are subject to the county budgetary approval process.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§903-A. Electricity services

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

A. "Aggregator" has the same meaning as defined in Title 35-A, section 3201. [PL 1999, c. 178, §1 (NEW).]

B. "Competitive electricity provider" has the same meaning as defined in Title 35-A, section 3201. [PL 1999, c. 178, §1 (NEW).]

C. "Retail access" has the same meaning as defined in Title 35-A, section 3201. [PL 1999, c. 178, §1 (NEW).]
[PL 1999, c. 178, §1 (NEW).]

2. Establishment. County commissioners may establish a county electricity agency, referred to in this section as an "agency," to serve as a public aggregator for any electricity consumers, public or private, located within a county.
[PL 1999, c. 178, §1 (NEW).]

3. Powers. An agency is authorized to:

A. Enter into agreements with electricity consumers located within a county to aggregate their electric service needs within that county for the purpose of purchasing electricity on a group basis on or after the beginning date of retail access; and [PL 1999, c. 178, §1 (NEW).]

B. Exercise any other powers or authority that county commissioners are authorized to exercise and that the county commissioners expressly delegate to the agency. [PL 1999, c. 178, §1 (NEW).]

An agency may not require any electricity consumer to join or be served by the agency.
[PL 1999, c. 178, §1 (NEW).]

4. Agency board; appointment; terms; vacancy. The affairs of an agency are managed by a board of 9 persons appointed by the county commissioners. All board members must be residents of the county and no more than 3 may reside in any one commissioner district established under section 66. Board members serve for a 3-year term of office and may be reappointed, except that members of the first board have the following staggered terms chosen by lot at the board's first meeting.

A. Three members serve a one-year term. [PL 1999, c. 178, §1 (NEW).]

B. Three members serve a 2-year term. [PL 1999, c. 178, §1 (NEW).]

C. Three members serve a 3-year term. [PL 1999, c. 178, §1 (NEW).]

When a vacancy occurs on the board as a result of death, resignation, removal from the county, permanent incapacity or for any other reason, the county commissioners shall appoint a person to fill the vacancy for the unexpired term of office.
[PL 1999, c. 178, §1 (NEW).]

5. Funding; expenses; liabilities. All funding of and expenditures by an agency, including compensation of board members, must be authorized in the county budget. In order to raise revenues to fund its operations, an agency may impose a charge on consumers served by the agency, as long as any such charges are clearly identified and disclosed to consumers. All revenues and expenses of an agency must be segregated from other county revenues and expenses and separately accounted.

Nothing in this section may be construed to authorize an agency or a county through an agency to incur any indebtedness or liability on behalf of or payable by the State. Any debt or liability created or incurred by an agency or a county through an agency pursuant to this section is the responsibility of the agency or the county and does not constitute or create in any way a debt or liability of the State. An action taken by an agency or a county pursuant to any authority granted under this section may not be construed to constitute a pledge of the faith and credit of the State. All contracts entered into by an agency or a county pursuant to this section must contain a statement to the effect that the agency or county is solely responsible for all liabilities arising from the contract and that neither the faith and credit nor the taxing power of the State is pledged to the payment of any such liabilities.
[PL 1999, c. 178, §1 (NEW).]

6. Conflict of interest. A person may not hold office as an agency board member if the person owns, controls or otherwise has a direct financial interest in any competitive electricity provider.
[PL 1999, c. 178, §1 (NEW).]

7. Reservation of powers. Nothing in this section limits any other power or authority that county commissioners or others may have to provide services, including services related to the purchase and sale of electricity.
[PL 1999, c. 178, §1 (NEW).]

8. Subject to applicable law. Nothing in this section exempts an agency from the provisions of Title 35-A, including provisions relating to aggregators.
[PL 1999, c. 178, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 178, §1 (NEW).

§904. Food stamp or donated food program

The county commissioners of any county may provide for a food stamp or donated food program in conformity with regulations adopted by the United States Department of Agriculture and the United States Department of Health, Education and Welfare and may expend county funds to operate and administer such a program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§905. Priority social services programs

The county commissioners may expend county funds, from whatever source received, for a priority social services program under the Priority Social Services Act of 1973 contained in Title 22, Subtitle IV. They may assist in, contribute to and participate in providing a priority social services program through agreements between public or nonprivate organizations and the Department of Health and Human Services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

1. Cumberland County. The county commissioners of Cumberland County may also expend county funds for other nonwelfare programs as authorized by the Cumberland County legislative delegation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 689, §B6 (REV).

§906. Kennebec County fire protection services for Unity Township

The county commissioners of Kennebec County may contract with municipalities for fire protection services for Unity Township, assess Unity Township and expend funds to provide those services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§907. Piscataquis County child and family services

The county commissioners of Piscataquis County may expend county funds to support programs for child and family services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§908. Ambulance service in the plantations and unorganized territories of Piscataquis County

The county commissioners of Piscataquis County may expend funds for ambulance service in the plantations and unorganized territories of that county. Those funds may be raised by tax levy in those plantations and territories. The commissioners may contract with either a profit or nonprofit agency or a municipality to provide ambulance service and may enter into reciprocal agreements with private, public and municipal agencies for ambulance service. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§909. County advisory organizations

A county may raise or appropriate money to obtain the services of advisory organizations. The Legislature recognizes the Maine County Commissioners' Association and the Maine Sheriffs' Association as nonprofit advisory organizations and declares these associations to be instrumentalities of their member counties with their assets upon their dissolution to be delivered to the Treasurer of State to be held in custody for the counties of the State. An advisory organization may receive federal grants or contributions for their activities with respect to the solution of county problems. [PL 2003, c. 75, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 75, §1 (NEW).

§910. Broadcast television translator stations

A county may receive federal grants or contributions for the construction and operation of a broadcast television translator station as described in 47 Code of Federal Regulations, Section 74.732 (2008). Two or more counties may act jointly in performing the operations authorized by this section.
[PL 2009, c. 117, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 117, §1 (NEW).

ARTICLE 2

BUDGETARY ACCOUNTS

§921. Capital reserve accounts

1. Capital reserve accounts authorized. Section 5801, subsections 1 and 2, and section 5802, which contain the capital reserve account provisions for municipalities, apply equally to counties. The county commissioners have the powers and duties of municipal officers under those provisions.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Purpose of account stated. Before establishing any account under this section, including capital reserve accounts established for the unorganized territory, the county commissioners shall clearly specify the purpose for which the account is created, state the anticipated amount of the account and report that purpose and that amount, in writing, to the Office of the State Auditor. Once a purpose for an account is specified, any expenditure from that account must be for that purpose unless the Office of the State Auditor states in writing that an account for that purpose is no longer needed.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV).

§922. Insufficient appropriations

1. Transfer of funds within department or agency. Whenever any specific appropriation of a department or agency of county government is insufficient to pay the required expenditures for the statutory purposes for which the appropriation was made, the county commissioners may transfer an amount from any other specific line appropriation of the same department or agency to meet the expenditure, upon the written request of the department or agency. This request must bear the written approval of a majority of the county commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Contingent fund. There is established a contingent account in each county in an amount not to exceed the greater of 1.5% of the annual county budget or $100,000, except in Sagadahoc County, where the contingent account may not exceed 4% of the annual budget. Any funds that are available to each county may be used for this purpose. The contingent fund may be used at the discretion of the county commissioners for emergency purposes only. At the end of each fiscal year there must be transferred from unencumbered county funds an amount sufficient to restore the established county contingent account.
[PL 2003, c. 241, §1 (AMD).]

3. Record of transfers. The county treasurer shall keep a record of any transfers between specific line categories or from the contingent account. This record must be certified by the county commissioners within 30 days of each transfer.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 789, §1 (AMD). PL 1993, c. 343, §1 (AMD). PL 2003, c. 241, §1 (AMD).

§923. Capital expenditure accounts to carry over

Any unexpended balance of capital expenditures shall not lapse but shall be carried forward into the next year or until the purpose for which that account was established has been completed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§924. Surplus funds

The county commissioners of each county shall use any unencumbered surplus funds at the end of a fiscal year in the following fiscal year only as provided in this section. [PL 2005, c. 84, §2 (AMD).]

1. Restore contingent fund. The county commissioners shall first use any unencumbered surplus funds to restore the contingent account as provided in section 922, subsection 2.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Reduce tax levy. After restoring the contingent account under subsection 1, the county commissioners shall use any unencumbered surplus funds to reduce the tax levy in the following fiscal year as provided in this subsection. The county commissioners shall use any remaining unencumbered surplus funds in excess of 15% for the fiscal year beginning in 2002, 18% for the fiscal year beginning in 2003 and 20% for the fiscal year beginning in 2004 and each fiscal year thereafter of the amount to be raised by taxation in the following fiscal year to reduce the tax levy in that year. The county commissioners may not commit taxes to be raised in any fiscal year until the county commissioners have complied with this subsection.
[PL 2001, c. 349, §6 (AMD).]

3. Other uses; working capital. After compliance with subsection 2, the county commissioners may use any remaining unencumbered surplus funds to fund a county charter commission, as provided in section 1322, subsection 4, or to establish or fund a capital reserve account under section 921, including a corrections services capital reserve account, as provided in section 5801. If not used for these purposes, any remaining surplus funds may not be expended but must be retained as working capital for the use and benefit of the county except that correctional unencumbered surplus may not lapse to the county's noncorrectional fund balance but must be carried forward as the county or regional jail authority correctional services fund balance. Correctional services funds may be expended only for corrections services.
[PL 2009, c. 391, §3 (AMD).]

4. Unencumbered surplus funds defined. As used in this section, the term "unencumbered surplus funds" means the actual revenue in excess of estimates, as filed with the Office of the State Auditor for that fiscal year; all unexpended account balances at the end of that fiscal year, not including

capital reserve accounts established pursuant to section 921; all overlay as permitted under section 706; and any unexpended balances carried forward from prior fiscal years, including amounts retained as working capital.
[PL 2001, c. 349, §6 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 573, §3 (AMD). PL 2001, c. 349, §6 (AMD). PL 2005, c. 84, §2 (AMD). PL 2009, c. 391, §3 (AMD). PL 2013, c. 16, §10 (REV).

ARTICLE 3

DEBTS AND BORROWING

§931. Property taken for debt due from county

The personal property of the residents and the real estate within the boundaries of a county may be taken to pay any debt due from the county. The owner of property so taken may recover from the county under Title 14, section 4953. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§932. Anticipatory borrowing

1. Taxes. The county commissioners of all counties may borrow in anticipation of taxes. If the county budget has not yet been approved, the county commissioners of each county may borrow an amount not exceeding 80% of the previous year's budget, except as otherwise provided.
[PL 2005, c. 79, §4 (AMD).]

2. Sale of notes or securities. The county officers authorized to issue notes and securities may borrow money in anticipation of their sale by issuing temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the notes and securities. The period of this anticipatory borrowing may not exceed one year and the time within which the securities are to become due may not be extended by such anticipatory borrowing beyond the time fixed in the vote authorizing their issue or, if no term is specified there, beyond the term permitted by law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Change of fiscal year.
[PL 2015, c. 335, §15 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2005, c. 79, §4 (AMD). PL 2007, c. 653, Pt. A, §13 (AMD). PL 2009, c. 391, §4 (AMD). PL 2015, c. 335, §15 (AMD).

§933. Temporary loans

Without obtaining the consent of their county, the county commissioners of each county may raise funds through temporary loans not exceeding 1/5 of 1% of the assessed valuation of their respective counties. These loans must be paid, within one year from the time when the loan is contracted, out of

money raised during the current year by taxes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§934. Loans

The county commissioners may obtain loans of money for the use of their county and cause notes, obligations or bonds, with coupons for lawful interest, to be issued for payment of the loans. These loans may not exceed $10,000, except in Franklin County and Aroostook County as provided in sections 935 and 935-A and except to the extent authorized pursuant to Title 10, chapter 110, without first obtaining the consent of the county, substantially as provided in section 122 or by countywide referendum pursuant to section 938. [PL 2009, c. 517, §14 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 778, §1 (AMD). PL 1999, c. 717, §1 (AMD). PL 2009, c. 517, §14 (AMD).

§935. Franklin County loans

The county commissioners of Franklin County may obtain loans of money for the use of Franklin County, not to exceed $50,000, and cause notes or obligations, with coupons for lawful interest, to be issued for payment of the loans. Any loans of money in excess of $10,000 may be incurred only for the purpose of building, rebuilding, altering or otherwise improving county owned real estate and personal property in that real estate. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§935-A. Aroostook County loans

The county commissioners of Aroostook County may obtain loans of money for the use of Aroostook County, not to exceed $95,000, and cause notes or obligations, with coupons for lawful interest, to be issued for payment of the loans. Any loans of money in excess of $10,000 may be incurred only for the purpose of building, rebuilding, altering or otherwise improving county-owned real estate and personal property in that real estate. [PL 1991, c. 778, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 778, §2 (NEW).

§936. Bonds

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 717, §2 (RP).

§937. Financial statements required

The treasurer of the county shall prepare a signed statement to accompany any question submitted to the electors for ratification of a revenue-producing, revenue-refunding or general obligation of the county bond issue. The statement must set forth: [PL 1991, c. 548, Pt. D, §4 (AMD); PL 1991, c. 548, Pt. D, §10 (AFF).]

1. Total indebtedness. The total amount of bonds of the county outstanding and unpaid, the total amount of bonds of the county authorized and unissued and the total amount of the bonds of the county contemplated to be issued if the enactment submitted to the electors is ratified;
[PL 1991, c. 269, §1 (NEW).]

2. Costs. An estimate and explanation of costs involved, including varying interest rates, the estimated cost of interest on the bond amount to be issued, the total cost of principal and interest to be paid at maturity and any other substantive information relating to the debt of the county as the treasurer may determine; and
[PL 1991, c. 269, §1 (NEW).]

3. Validity. A declaration that the validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the estimate made pursuant to subsection 2. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.
[PL 1991, c. 269, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 269, §1 (NEW). PL 1991, c. 548, §D4 (AMD). PL 1991, c. 548, §D10 (AFF).

§938. Bond issue referendum election; conduct; public hearings

Except as otherwise provided in sections 122, 934 and 937, the method of voting and the conduct of a county bond referendum election are governed by Title 21-A. [PL 1999, c. 717, §3 (NEW).]

1. County commissioners, administrators; perform duties of Secretary of State. When Title 21-A applies to a county bond referendum election, the county commissioners or county administrators shall perform the duties of the Secretary of State prescribed by Title 21-A.
[PL 1999, c. 717, §3 (NEW).]

2. Budget review; public hearings. Prior to each county bond referendum election, each county bond issue question must be reviewed by the appropriate county budget committee. Following this review, the county commissioners shall conduct at least one public hearing in each of the county commissioner districts in that county. The public hearing must include a reading of each bond issue question proposed by the commissioners to be voted upon by the county.
[PL 1999, c. 717, §3 (NEW).]

3. Statewide election. A county bond referendum election may only be conducted during a statewide election.
[PL 1999, c. 717, §3 (NEW).]

4. Result filed with the Secretary of State. The result of a county bond referendum election must be declared by the county commissioners or county administrators and due certificate filed with the Secretary of State.
[PL 1999, c. 717, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 717, §3 (NEW).

ARTICLE 4

AUDITS AND REPORTS

§951. County audit

1. Annual audit. Every county shall have an audit made of its accounts annually covering the last complete fiscal year by the Office of the State Auditor or by a certified public accountant selected by the county commissioners. The audit must be performed in accordance with generally accepted auditing standards and procedures pertaining to governmental accounting. The auditor shall produce an audit report that includes the items required in section 952-A. When an audit is conducted by a certified public accountant, the audit, upon completion, must be forwarded to the Office of the State Auditor. The audit, including the management letter, is a public document.
[PL 2003, c. 178, §2 (AMD); PL 2013, c. 16, §10 (REV).]

2. Improper transactions; report to district attorney. If, in the course of the audit, the auditor finds evidence of improper transactions, including the use of contingency funds for nonemergency purposes, the transfer of funds between departments or agencies, incompetence in keeping accounts or handling funds, failure to comply with this subchapter or any other improper practice of financial administration, the auditor shall report the same to the district attorney immediately.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Commissioners responsible. The county commissioners are responsible for the proper financial administration of each county department or agency and for approving county expenditures.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 178, §2 (AMD). PL 2013, c. 16, §10 (REV).

§952. Annual report

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 178, §3 (RP).

§952-A. Audit report

1. Report contents. The report required pursuant to section 951, subsection 1 must contain the following items:

A. A management letter; [PL 2003, c. 178, §4 (NEW).]

B. A letter of transmittal; [PL 2003, c. 178, §4 (NEW).]

C. The independent auditor's report on the financial statements; and [PL 2003, c. 178, §4 (NEW).]

D. All financial statements and all other information required by governmental accounting and financial reporting standards. [PL 2003, c. 178, §4 (NEW).]

[PL 2003, c. 178, §4 (NEW).]

2. Copies for distribution. Copies of the report must be deposited in the county commissioners' office or a convenient place of business for distribution to the public and must be distributed to each municipality in the county.
[PL 2003, c. 178, §4 (NEW).]

3. Copies open for inspection. Copies of the report and all county records must be kept in the county commissioners' office and must be open to the inspection of the public during usual business hours.
[PL 2003, c. 178, §4 (NEW).]

SECTION HISTORY

PL 2003, c. 178, §4 (NEW).

CHAPTER 5

MERIDIAN LINES AND STANDARDS OF LENGTH

§1001. Meridian line; record

1. Line constructed. The county commissioners, at the expense of their respective counties, shall erect and maintain a true meridian line in their county, at a place convenient to the public and remote from electrical disturbances. The line must be perpetuated by stone pillars with brass or copper points firmly fixed on the tops of the pillars, indicating the true range of the meridian.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Record book. The commissioners shall provide a book of records to be kept by the county commissioners or by their appointee who is nearer to the structure and is accessible to all persons wishing to refer to the book.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1002. Care and custody

The structures referred to in section 1001 are under the care and custody of the county commissioners. Any surveyor residing in the county or engaged in surveying in the county shall have free access to the structure for the purpose of testing the variation of the magnetic needle. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1003. Annual verification of compass; record of needle declination

When the meridian lines required by section 1001 have been established and completed, every land surveyor shall, at least annually before making any survey, test and verify his compass or other instrument using the magnetic needle by the meridian line established in the county where his surveys are to be made. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Test recorded. The surveyor shall enter the declination of that needle from the true meridian in the book mentioned in section 1001, together with the style and make of the instrument and its number, if any, and the date and hour of observation and sign his name for future reference. The

surveyor shall insert corresponding entries as to date and declination in the field notebooks. The surveyor's field notebooks must also show the dates on which the surveys are made.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Violation. Neglect or refusal to comply with this section is a civil violation for which a forfeiture of $25 for each neglect may be adjudged, to be recovered on complaint in the county where any survey is made, half to the complainant and half to the county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Application. This section does not apply to surveys that are made by angles from some fixed, permanent line or by a solar instrument and independent of the magnetic needle.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1004. Standards of length; verification of tape or chain

1. Standard of length constructed. The county commissioners, at the expense of their respective counties, shall erect and maintain in their county, at a place convenient to the public, a standard of length at least 100 feet long with suitable subdivisions marked on it. This standard may consist of stone monuments permanently fixed with metal plates on the tops of the monuments, properly marked and protected, or of a steel bar of the necessary length properly marked and suitably placed and protected. All such standards must correspond with the standard of the National Bureau of Standards and must be provided with proper means for determining the tension of tapes or chains during comparison. These standards are under the care and custody of the county commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Record book; comparisons. The county commissioners shall keep a suitable book for the record of comparisons. The standards shall be accessible to any person for comparing any tape, chain or other linear measure.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Surveyors' comparisons. Before making surveys in this State and at least annually, every surveyor must compare the tape or chain used in those surveys with the standard in the county in which the surveyor resides or in which surveys are to be made, and shall record the result in the book provided for that purpose. The surveyor must describe the tape or chain with the difference, if any, between that tape or chain and the standard, together with the date and temperature and the tension on the tape or chain at the time of comparison.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Violation. When this standard is completed in any county, any surveyor residing or making surveys in that county who neglects or refuses to comply with this section is liable to the penalties under section 1003.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1005. Appointment of commissioners to verify meridians and standards

When the meridian line or standard of length is established, repaired or rebuilt in any county, the Governor shall appoint a competent commissioner, not necessarily a resident of this State, to inspect and verify the meridian line or standard of length. In case of a meridian line, the commissioner shall verify the line by astronomical observation and in the commissioner's report shall accurately describe the structure, its latitude and longitude and the declination of the needle at the time. In case of a standard of length, the commissioner shall describe the structure, its location and exact length as determined by comparison with some authentic standard from the National Bureau of Standards. All such reports must be full and accurate and shall be deposited in the Department of the Secretary of State and a certified copy shall be filed and recorded in the office of the county commissioners in the county where the structure is located. The commissioner appointed by the Governor shall receive from the State such just compensation as the Governor allows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1006. Damage to meridians; penalty

Whoever willfully displaces, alters, defaces, breaks or otherwise damages any of the pillars or points, plates, enclosures, bars, locks, bolts or any part of the structure of any meridian line or standard of length: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Civil violation. Commits a civil violation for which a forfeiture of not more than $100 may be adjudged, to be recovered on complaint in the county where the structure is located, half to the complainant and half to the county; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Liable for cost of repairs. Is liable in a civil action for the amount necessarily expended in repairing damages caused by that act.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1007. Exceptions

This chapter does not apply to the County of Kennebec and the County of Aroostook. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 7

EMERGENCY MANAGEMENT

§1101. Activities authorized; costs

County commissioners may provide for emergency management activities as provided by law within their respective counties. The county commissioners shall include the cost of these activities in the annual estimate under chapter 3. [PL 2013, c. 462, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 2013, c. 462, §9 (AMD).

CHAPTER 9

REGIONAL DEVELOPMENT

§1201. Membership in a regional planning commission

As provided in section 2323, a county may become a member of a regional planning commission by resolution of the county commissioners, provided that all or part of the county is located within the regional planning and development district or subdistrict served by the commission. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 11

COUNTY CHARTERS

SUBCHAPTER 1

GENERAL PROVISIONS

§1301. Purpose

The purpose of this chapter is to provide a method for each county, by vote of its voters, to determine the structure of county government in that county. The county charter adopted in each county may determine the officers of the county, their relationship, the administrative structure necessary to perform county functions and the organization of county government, subject to the limits of the Constitution of Maine. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1302. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. County commissioners. "County commissioners" means the county commissioners in a county or the officers, under a charter, who exercise legislative powers within the county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

PROCEDURES

§1321. Charter adoptions, revisions, procedure

A charter commission may be initiated by the county commissioners or by petition by voters according to the methods established in subsections 1 and 2. [PL 2003, c. 696, §9 (NEW).]

1. County commissioners. The county commissioners may determine that the adoption of a county charter should be considered or that the revision of a county charter already adopted under this chapter should be considered and, by order, provide for the establishment of a charter commission to carry out that purpose as provided in this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Petition by voters. On the written petition of a number of voters equal to at least 10% of the number of votes cast in the county at the last gubernatorial election, the county commissioners shall, by order, provide for the establishment of a charter commission for the preparation or revision of a county charter in the form and manner provided in this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Petition procedure. The following procedure shall be used in the alternative method under subsection 2.

A. Any 5 voters of the county may file an affidavit with the county clerk stating:

(1) They will constitute the petitioner's committee;

(2) They will circulate the petition and file it in proper form;

(3) The names and addresses of the members; and

(4) The address to which all notices to the committee are to be sent.

Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee. Petition blanks shall be issued for each municipality.

The petitioner's committee may designate additional voters of the county, who are not members of the committee, to circulate the petition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The clerk shall prepare petition forms at the county's expense. The petition forms shall be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary.

(1) Petition forms shall carry the following legend in bold lettering at the top of the face of each form.

"County of ...."

"Each of the undersigned voters respectfully requests the county commissioners to establish a charter commission for the purpose of revising the county charter or preparing a new county charter."

Each signature to a petition must be in ink or other indelible instrument and must be followed by the residence of the voter with street and number, if any. No petition may contain any party or political designation.

(2) The clerk shall note the date of each petition form issued. All petitions must be filed within 120 days of the date of issue or they are void.

(3) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating that the circulator personally circulated the form, the number of signatures on the form, that all the signatures were signed in the circulator's presence, that the circulator believes them to be genuine signatures of the persons whose names they purport to be, that each signer has signed no more than one petition and that each signer had an opportunity to read the petition before signing. Before filing the petitions under subparagraph (4), the circulator shall submit them to the registrar of each municipality concerned for certification according to Title 21-A, section 354, subsection 7, paragraph B.

(4) Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note the date of filing on the forms.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Procedure after filing. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by mail and shall file a copy with the county commissioners.

A. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of the clerk's certificate.

Within 10 days after the notice of intention is filed, the committee may file a supplementary petition to correct the deficiencies in the original petition. This supplementary petition must in form and content comply with the requirements for an original petition under subsection 3. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 5 days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for an original petition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Election procedure.

[PL 2003, c. 696, §10 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1987, c. 737, Pt. A, §2 (NEW). PL 1987, c. 737, Pt. C, §106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD). PL 2003, c. 696, §§9,10 (AMD).

§1322. Charter commission; membership; procedure

1. Membership. The charter commission shall consist of 9 members, 6 of whom must be voters of the county, elected as provided in paragraph A, and 3 of whom shall be appointed by the county commissioners under paragraph B.

A. Voter members shall be nominated as provided in Title 21-A, sections 351, 352, 354, 355 and 356, and shall be nominated and elected by district if the county commissioners are elected by district. The number of voter members from each district shall be apportioned equally. When equal apportionment is not possible, one or more voter members may be nominated and elected at large. The voter members must be nominated and elected without party designation. County commissioners are not eligible for election. Election of voter members may be held at the same election as the referendum for the charter commission, but must be held within 60 days of that election. The names of the candidates shall be arranged on the ballot alphabetically by last name. If the elections are held at the same time, they shall appear immediately below the question relating to the charter commission. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Appointive members must be residents of the county. No person may be appointed who is a resident of a municipality in which another member resides, unless this is impossible due to the composition of the county's districts and the residences of any of those eligible under this paragraph to be appointive members. The county commissioners shall make the appointments within 30 days after the voter members have been selected. No more than 2 appointive members may be members of the same political party. One appointive member must be a county commissioner, one must be a municipal officer and one must be either a Senator or Representative. The county clerk shall give at least 7 days' notice to the clerk of each municipality within the county and each member of the county legislative delegation of the date, time and place of the meeting at which the appointive members will be selected. The county commissioners shall set the date, time and place of the meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Organization. Immediately after receiving notice of the appointment of the members by the county commissioners, the county clerk shall notify the appointed and elected members of the charter commission of the date, time and place of the commission's organizational meeting. The clerk shall set the date, time and place and give at least 10 days' notice of the meeting.

The charter commission shall organize by electing from its members a chairman, vice-chairman and a secretary and shall file notice of those elections with the county clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the county and, when the vacating member was elected by a district, the district, except that a vacancy among appointive members shall be promptly filled by the county commissioners. Members shall serve without

compensation, but shall be reimbursed from the commission's account for expenses lawfully incurred by them in performing their duties.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Rules; staff. The charter commission may adopt rules governing the conduct of its meetings and proceedings and may employ any necessary legal, research, clerical or other employees and consultants within the limits of its budget.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Funding. A county shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to the commission, and shall permit it to consult with and obtain advice and information from county officers, officials and employees during ordinary working hours. Within 20 days after the election of a charter commission, the county commissioners shall credit $500 to the charter commission account. A county may from time to time transfer additional funds to the charter commission account from surplus or from other accounts in the county budget.

A. In addition to funds made available by a county, the charter commission account may receive funds from any other source, public or private, except that no contribution of more than $5 may be accepted from any source other than the county or a municipality in the county unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing filed with the clerk. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Prior to its termination, the charter commission shall file with the clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the county's surplus account. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Hearings, reports, time limits. The charter commission shall hold at least 3 public hearings to receive information, views, comments and other material relating to its functions. The first hearing shall be held within 30 days after the charter commission's organizational meeting.

A. The charter commission shall hold its public hearings within the county at times and places set by the commission. At least 10 days before a hearing, the charter commission shall publish the date, time and place of the hearing in a notice in a newspaper having general circulation in the county. Hearings may be adjourned from time to time without further published notice. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 9 months after its election, the charter commission shall:

(1) Prepare a preliminary report including the text of the charter or charter revision which the commission intends to submit to the voters and any explanatory information the commission considers desirable;

(2) Have the report printed and circulated throughout the county; and

(3) Provide sufficient copies of the preliminary report to the county clerk to permit its distribution to each voter requesting a copy. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987,

c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Within 12 months after its election the charter commission shall submit its final report to the county commissioners. This report must include:

(1) The full text and an explanation of the proposed new charter or charter revision;

(2) Any comments that the commission considers desirable;

(3) An indication of the major differences between the current and proposed charters; and

(4) A written opinion by an attorney admitted to the bar of this State that the proposed charter or charter revision does not conflict with the United States Constitution, the Constitution of Maine or the general laws.

Minority reports may be filed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The county commissioners may extend the time limits for the preparation and submission of preliminary and final reports of the charter commission for up to 24 months after the election of the charter commission, if the extension is necessary to:

(1) Properly complete the reports;

(2) Have them printed or circulated; or

(3) Obtain the written opinion of anattorney. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Election. When the final report is filed, the county commissioners shall order the proposed new charter or charter revision to be submitted to the voters of the county at the next regular or special statewide election held at least 60 days after the final report is filed.
[PL 1991, c. 862, §9 (AMD).]

7. Termination. Except as provided in paragraph A, the charter commission shall continue in existence for 30 days after submitting its final report to the county commissioners to wind up its affairs.

A. If judicial review is sought under section 1325, the charter commission shall continue in existence until that review and any appeals from that review are finally completed for the purpose of intervening in those proceedings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 862, §9 (AMD).

§1323. Charter amendments; procedure

1. County commissioners. The county commissioners may determine that amendments to the county charter should be considered and, by order, provide for notice and hearing on them in the same manner as provided in subsection 4, paragraph A. Within 7 days after the hearing, the county

commissioners may order the proposed amendment to be placed on a ballot at the next regular or special statewide election held in the county at least 30 days after the order is passed.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Alternative statements of a single amendment are prohibited. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Petition by voters. On the written petition of a number of voters equal to at least 10% of the number of votes cast in a county at the last gubernatorial election the county commissioners shall, by order, provide that the proposed amendments to the county charter be placed on a ballot in accordance with the following procedures.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Alternative statements of a single amendment are prohibited. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Petition procedure. The petition forms shall carry the following legend in bold lettering at the top of the face of each form.

"County of ...."

"Each of the undersigned voters respectfully requests the county commissioners to provide for the amendment of the county charter as set out below."

No more than one subject may be included in a petition.

In all other respects, the form, content and procedures governing amendment petitions are the same as provided for charter revision and adoption petitions under section 1321, including procedures relating to filing, sufficiency and amendments.

4. Action on petition. The following procedures shall be followed upon receipt of a report that a petition is sufficient.

A. Within 10 days after receiving a report that a petition is sufficient, the county commissioners shall, by order, provide for a public hearing on the proposed amendment. At least 10 days before the hearing, they shall publish a notice of the hearing in a newspaper having general circulation in the county. The notice must contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the county commissioners or a committee appointed by them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 7 days after public hearing, the county commissioners or the committee appointed by them shall file with the county clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this State that the proposed amendment does not conflict with the general laws, the United States Constitution or the Constitution of Maine.

In the case of a committee report, a copy shall also be filed with the county commissioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. On all petitions filed more than 120 days before the end of the current county fiscal year, the county commissioners shall order the proposed amendment to be submitted to the voters of the county at the next regular or special statewide election held within that year after the final report is filed. If no such election is held before the end of the current county fiscal year, the county commissioners may order a special election to be held before the end of the current county fiscal year for the purpose of voting on the proposed amendment. Unrelated charter amendments shall be submitted to the voters as separate questions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Summary. When the county commissioners, with the advice of an attorney, determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the subject matter of the proposed amendment, the county commissioners shall include in their order a summary of the proposed amendment and instruction to the clerk to include the summary on the ballot instead of the text of the proposed amendment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1987, c. 737, Pt. A, §2 (NEW). PL 1987, c. 737, Pt. C, §106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD).

§1324. Submission to voters

1. Voting procedure. The method of voting at all elections, when a question relating to a charter revision, a charter adoption or a charter amendment is involved, shall be by secret ballot in the manner prescribed for state elections. The county commissioners shall notify the municipal officers of the county of the date on which the election will be held. The municipal officers shall notify the inhabitants of their respective municipalities in that county to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of these recommended charter revisions by voting on the question in paragraphs A and B.

A. In the case of a charter revision or a charter adoption, the question to be submitted to the voters shall be in substance as follows.

> "Shall the county approve the (charter revision) (new charter) recommended by the charter commission?"

B. In the case of a charter amendment, the question to be submitted to the voters shall be in substance as follows.

> "Shall the county approve the charter amendment reprinted (summarized) below?"

The voters of each municipality in the county shall vote by ballot on this question and shall designate their choice by a cross or check mark placed within a corresponding square below the words "Yes" or "No." The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings in the county and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the votes in the county are in favor of the recommended adoption, amendment or revision, the

Governor shall proclaim that fact without delay. The adoption, amendment or revision becomes part of that county's charter 30 days after the date of the Governor's proclamation.

The Secretary of State shall prepare and furnish to each municipality in the county all ballots and returns necessary to carry out the purpose of this referendum.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 737, Pt. A, §2 (NEW); PL 1989, c. 737, Pt. C, §106 (NEW).]

2. Voter information. The following procedures shall be performed before the election.

A. In the case of a charter revision or charter adoption, at least 2 weeks before the election, the county commissioners shall:

(1) Have the final report of the charter commission printed;

(2) Make copies of the report available to the voters in the clerk's office; and

(3) Post the report in at least one public place in each municipality in the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In the case of a charter amendment, at least 2 weeks before the election, the county commissioners shall:

(1) Have the proposed amendment and any summary of the amendment printed;

(2) Make copies available to the voters in the clerk's office; and

(3) Post the amendment and any summary of the amendment in the same manner as required under paragraph A. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1987, c. 737, Pt. A, §2 (NEW). PL 1987, c. 737, Pt. C, §106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD).

§1325. Judicial review

1. Petition. The Superior Court, upon petition of 10 voters of the county or on petition of the Attorney General, may enforce this chapter. The charter commission may intervene as a party in any such proceeding.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Declaratory judgment. A petition for declaratory relief under Title 14, chapter 707, may be brought on behalf of the public by the Attorney General or, by leave of the court, by 10 voters of the county. The charter commission shall be served with notice of the petition for declaratory judgment.

A. If 10 voters petition for declaratory relief, they shall serve the Attorney General and the charter commission with notice of the preliminary petition for leave. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The Attorney General or the charter commission may intervene as a party at any stage of the proceedings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The petitioners are liable for costs. The court has discretion to award costs and reasonable attorney fees to the petitioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Judicial review. Any 10 voters of the county may, by petition, obtain judicial review to determine the validity of the procedures under which a charter was adopted, revised or amended. The 10 voters must serve the charter commission with notice of the petition. The charter commission may intervene as a party in the proceeding. The petition must be brought within 30 days after the election at which the charter, revision or amendment is approved. If no such petition is filed within this period, compliance with all the procedures required by this chapter and the validity of the manner in which the charter adoption, revision or amendment was approved is conclusively presumed. No charter adoption, revision or amendment may be found invalid because of any procedural error or omission, unless it is shown that the error or omission materially and substantially affected the adoption, revision or amendment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Resubmission upon judicial invalidation for procedural error. If the court finds that the procedures under which any charter was adopted, revised or amended are invalid, the Superior Court may, on its own motion or the motion of any party, order the resubmission of the charter adoption, revision or amendment to the voters. This order shall require only the minimum procedures on resubmission to the voters that are necessary to cure the material and substantial errors or omissions. The Superior Court may also recommend or order other curative procedures to provide for valid charter adoption, revision or amendment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 3

CHARTER POWERS

§1351. Charter powers; limits

1. Charter powers. The charter for any county may provide for:

A. The organization of county government; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The election of a county legislative body and the method of selecting officers, officials and employees; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The establishment of county departments, agencies, boards or commissions, and their descriptions, powers and duties; and the powers and authority of county officers or officials to direct, regulate and control these agencies, departments, boards and commissions; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The internal activities of county government; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The provisions required for the transition to the new form. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Limitations. A county adopting a charter under this chapter may exercise only those powers specifically stated in the charter. New powers may only be exercised upon amendment or revision of the charter. In any event, no county may, by the adoption, amendment or revision of a charter, exercise any power or function which the Legislature has not conferred on that county either expressly or by clear implication by general or specific law. A county may not alter the statutory method of raising money for county expenditures.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Districts. A county adopting a charter under this chapter shall provide for the election of county officers from 3, 5 or 7 districts, from each of which one officer shall be elected. The charter shall specify the number of districts and establish the boundaries of each district.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1352. Application of general law; duties designated

1. Application. If a county adopts a charter, the following general laws and laws related to that county do not apply if the charter provides for that function:

A. Sections 2, 52 and 53; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Chapter 1, subchapter 2, sections 61 to 82; [PL 2003, c. 696, §11 (AMD).]

C. Chapter 1, subchapter 3, sections 151 to 162; [PL 2003, c. 696, §11 (AMD).]

D. Section 201; [PL 2003, c. 696, §11 (AMD).]

D-1. Chapter 3, subchapter 1, sections 701 to 900-E; and [PL 2003, c. 696, §11 (NEW).]

E. Title 33, sections 601 to 608. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 696, §11 (AMD).]

2. Duties designated. The county charter must designate the county officers, officials or employees who will carry out the duties required of county commissioners, county treasurers and registers of deeds under general law if the new charter abolishes any of these offices or positions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 696, §11 (AMD).

§1353. Finance committee

A county adopting a charter under this chapter may provide for a method of appropriating money for county expenditures other than the method in sections 2, 701 and 702. Any alternative method provided must give the county legislative body the authority to appropriate money, according to the budget, which must first be approved by majority vote of the finance committee. If the budget is not approved before the start of a fiscal year, the county shall, until a budget is finally adopted, operate on an interim budget which may not exceed 80% of the previous year's budget. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Creation of finance committee. A county choosing to exercise its authority under this section shall specify in the charter the number, term and method of selection of members of the finance committee. Each commissioner district must be equally represented. One of the following methods of selection shall be used.

A. Each county commissioner shall appoint the finance committee members from that commissioner's district from among the municipal officers of that district. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The municipal officers within each commissioner district shall caucus and elect the finance committee members from that district. The principle of proportional representation shall be followed in the election of the finance committee. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Chairman; membership; terms. The finance committee shall select its own chairman each year. Members may not serve ex officio and shall have terms covering at least one full budget cycle. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Budget estimate. The county commissioners shall submit a budget estimate to the finance committee in a timely fashion, no later than October 1st for the coming year, and shall provide the committee with necessary clerical assistance, office expenses and meeting space, as well as access to county files and information. The committee shall act on the budget in a timely fashion, in any event not later than December 15th of the budget year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Budget procedures. Any county adopting an alternative method of appropriating money for county expenditures under this section shall require in the charter that the county commissioners hold one or more public hearings in the county on the budget estimates before October 1st. A copy of the

final budget estimates shall be filed, on forms approved by the Office of the State Auditor, with the State Auditor, who shall retain them for 3 years.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV).

CHAPTER 12

COUNTY ADMINISTRATIVE SERVICES

§1401. Provision of services to municipalities

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1402. Public hearings

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1403. Plan for administrative services

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1404. Operating agreement

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1405. Additional municipalities

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1406. Tax increases prohibited

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1407. Penalties

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1408. Eligible counties

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

§1409. Repeal

(REPEALED)

SECTION HISTORY

PL 1993, c. 407, §1 (NEW). MRSA T. 30-A §1409 (RP).

CHAPTER 13

COUNTY JAILS AND JAILERS

SUBCHAPTER 1

OFFICIALS AND PERSONNEL

§1501. Custody of jail and prisoners; jailer

The sheriff has the custody and charge of the county jail and of all prisoners in that jail and shall keep it in person, or by a deputy as jailer, master or keeper. The appointment, discipline, suspension or dismissal of the jailer, master or keeper is subject to section 501. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 853 (AMD).]

1. Subordinate assistants and employees. The jailer, master or keeper shall appoint, subject to the requirements of section 501, all subordinate assistants and employees. Subordinate assistants and employees shall be appointed for the same period that is provided for deputy sheriffs under section 381. The professional qualifications required of them must emphasize training or experience in or knowledge of corrections. The jailer, master or keeper and all subordinate assistants and employees are subject to the training requirements of Title 25, section 2804-D.
[RR 2009, c. 1, §20 (COR).]

2. Compensation. The pay of the jailer, master or keeper and all subordinate assistants and employees shall be set by the county commissioners and paid by their respective counties, except when otherwise provided by law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Jailer and subordinates may be deputies. The jailer and the jailer's subordinate assistants and employees may be deputy sheriffs.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 853 (AMD). RR 2009, c. 1, §20 (COR).

§1502. Jailer's duties when office of sheriff vacant

When a vacancy occurs in the office of sheriff, the jailer lawfully acting continues in office and shall retain charge of the jail and of all prisoners in or committed to the jail. The jailer's official neglects and misdoings are a breach of the principal's official bond until a new sheriff is qualified, or the Governor removes that jailer and appoints another, which the Governor may do. The jailer so appointed shall give bond in the manner required of a sheriff for the faithful discharge of duties. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1503. Offices of jailer and sheriff vacant; appointment by county commissioners

If the office of jailer becomes vacant while the office of sheriff is vacant, the county commissioners may appoint a jailer, who shall give bond as a sheriff is required to do and continue in office, if the appointment is confirmed at the commissioners' next meeting, during the vacancy in the office of sheriff or until a new jailer is appointed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1504. Sheriff to return list of prisoners at each criminal session of court

Every sheriff shall return a list of prisoners in custody to the Superior Court for a county on the first business day of every month, and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed, and shall have the calendar of prisoners in court for its inspection. The sheriff shall also provide lists of prisoners in custody to the Superior Court or to a District Court upon receipt of a request for an additional or updated list. The sheriff shall also provide for the transportation of prisoners to and from the District Court or Superior Court and ensure the safe custody of prisoners while they may be present during any court proceeding as directed by the court. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 146 (AMD); PL 1989, c. 722, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 146 (AMD). PL 1989, c. 722, §6 (AMD).

§1505. Record of persons committed

Every sheriff shall keep a true and exact calendar containing the names of all prisoners committed to the jail under the sheriff's charge, their residences, additions, time of their commitments, for what cause and by what authority, and a particular description of the persons of those committed for offenses. The sheriff shall register the name and description, the time when and the authority by which any prisoner was discharged, and the time and manner of any prisoner's escape. The information required by this section must be kept in a suitable, permanent record at the office of the sheriff. [PL 2001, c. 33, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 33, §1 (AMD).

§1506. Official papers filed and kept with calendar and delivered to successor

All warrants, mittimuses, processes and other official papers by which any prisoner is committed or released, or attested copies of those papers, shall be regularly filed in order of time and safely kept with the calendar. When vacating the sheriff's office, the sheriff or the sheriff's personal representative shall deliver those papers to the new sheriff on penalty of forfeiting $200 to the county. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1507. Sheriff responsible for delivery of prisoners to successors

All sheriffs are responsible for the delivery to their successor of all prisoners in custody at the time of their removal. For that purpose they shall retain the keeping of the jail in their counties and the prisoners in the jail until their successors enter office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1508. Liability of sheriff or jail keeper for escape

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 623, §4 (RP).

§1509. Escape through insufficiency of jail

1. Payment by county; sheriff's action. When an escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount of the fine paid under section 1508. If they do not make an order within 6 months after the demand is presented to them, the sheriff may bring action against the inhabitants of that county, to be tried in that county or in an adjoining county. Service shall be made as in other actions.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Appointment of agent to defend county; execution. The commissioners may appoint an agent to appear and defend an action brought under subsection 1. If they have no meeting between the time of service and the time within which the answer is required to be served, the action shall be continued for such time as the court directs, saving all advantages to the defendants.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1510. Definitions

For the purposes of this chapter, "prisoner" or "inmate" means an adult sentenced and committed to, transferred to or detained in the custody of a jail, including an adult in a community confinement monitoring program pursuant to section 1659-A. [PL 2015, c. 315, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 315, §1 (NEW).

SUBCHAPTER 2

PRISONERS AND THEIR CONDUCT

§1551. Positions of trust for certain prisoners

A sheriff may grant positions of trust only to a prisoner confined in a jail who was sentenced to serve a term in that particular jail or who was transferred to that particular jail from another correctional facility where the prisoner was serving a sentence. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1552. Treatment of prisoners for debt and minors

All jail keepers shall keep prisoners committed for debt separate from prisoners charged with felony or infamous crimes. They shall keep all minors so committed and all prisoners upon a first charge, before or after conviction, separate from those convicted more than once of felony or infamous crimes, so far as the construction or state of the jail allows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1553. Violations or furnishing liquor to prisoners

If any jail keeper violates section 1552 or voluntarily or negligently allows any prisoner in custody, charged with or convicted of any offense, to have any intoxicating liquor, unless the physician authorized to attend the sick in that jail certifies in writing that the prisoner's health requires it and prescribes the quantity, the jail keeper forfeits $25 for the first offense and $50 for the 2nd offense. These forfeitures shall be recovered for the county by indictment, or by persons suing therefor, to their own use. The jail keeper shall be removed from office and may not hold the office of sheriff, deputy sheriff or jailer for 5 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1554. Federal prisoners

The keepers of the county jails shall receive and safely keep all prisoners committed under authority of the United States until discharged, under the penalties provided for the safekeeping of prisoners under the laws of this State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1555. Prisoners may attend funerals

Prisoners at the county jails may, at the discretion of the sheriff, attend funerals of their legally considered mother, father, husband, wife or child if the funeral is held within the State. Prisoners must pay the cost of transportation and the fee and expenses of the officer who takes them to the funeral. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1556. Furloughs

1. Furlough authorized. The sheriff may establish rules for and permit a prisoner under the final sentence of a court a furlough from the county jail in which the prisoner is confined. Furlough may be granted for not more than 3 days at one time in order to permit the prisoner to visit a dying relative, to obtain medical services or for any other reason consistent with the rehabilitation of an inmate or prisoner that is consistent with the laws or rules of the sheriff's department. Furlough may be granted for a period longer than 3 days if required to provide treatment for a physical or mental condition of the prisoner, including a substance use disorder, as determined by a qualified licensed professional.
[PL 2017, c. 407, Pt. A, §118 (AMD).]

2. Copy of rules provided to prisoner. Any prisoner permitted furlough from the county jail under this section shall be furnished a copy of the rules of the county jail applicable to the furlough. The prisoner must attest to receiving the copy.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Violation of terms of release. All prisoners who willfully violate the terms of their release under this section in relation to the time for reporting to their places of furlough, the activities they may conduct while on furlough or time of reporting back to the county jail, may be punished by imprisonment for not more than 60 days, except that prisoners who do not return to the county jail within 24 hours from the time they are scheduled to return may be prosecuted for escape under Title 17-A, section 755. They shall be prosecuted in the county in which the jail to which they were sentenced is located.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Violation; obstruction or assistance to furloughed prisoner. Notwithstanding Title 17-A, section 4-A, any person 18 years of age or over who willfully obstructs, intimidates or abets any prisoner on furlough under this section, and thereby contributes to or causes the prisoner's violation of the terms and conditions of the furlough, after having been warned by the sheriff to cease and desist in that relationship or association with the prisoner, is guilty of a Class D crime and shall be punished by a fine of not more than $500 or by imprisonment for not more than 11 months, or both.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 659, §F1 (AMD). PL 2017, c. 407, Pt. A, §118 (AMD).

§1556-A. Visitation

Except as otherwise provided in this section, and subject to any conditions and limitations required for the safety and security of a county jail as determined on a case-by-case basis by the sheriff of the county jail, the sheriff shall provide for in-person visitation between a prisoner and a visitor of the prisoner. [PL 2019, c. 76, §1 (NEW).]

1. Video-only visitation. Upon a determination by the sheriff of a county jail that in-person visitation between a particular prisoner and a visitor of the prisoner may jeopardize the safety and security of the jail, the sheriff may restrict that prisoner to video-only visitation. Upon a determination by the sheriff that the jail facility is unable to provide a safe and secure location for any in-person visitation, the sheriff, on a short-term basis only, may restrict all visitation at the jail to video-only visitation.
[PL 2019, c. 76, §1 (NEW).]

2. Contact visitation. Subject to any conditions and limitations required for the safety and security of a county jail as determined on a case-by-case basis by the sheriff, the sheriff shall provide opportunities for in-person visitation involving physical contact between a prisoner and a visitor of the prisoner, unless the sheriff determines that the jail facility is unable to provide a safe and secure location for any in-person visitation involving physical contact.
[PL 2019, c. 76, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 76, §1 (NEW).

§1557. Transfer from jails

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 887, §§2,3 (AMD). PL 1995, c. 368, §R6 (RPR). PL 1995, c. 647, §4 (RP).

§1557-A. Transfer from jails

(REPEALED)

SECTION HISTORY

PL 1995, c. 647, §5 (NEW). PL 2007, c. 653, Pt. A, §14 (RP).

§1557-B. Transfer from a sending jail to a receiving jail

1. Transfer. A sheriff may transfer a prisoner from a jail to another jail upon the request of the sheriff of the sending jail and the approval of the sheriff of the receiving jail. A sheriff may transfer a prisoner to a correctional facility upon the request of the sheriff of the sending jail and the approval of the Commissioner of Corrections.
[PL 2015, c. 335, §16 (NEW).]

2. Transfer cost. The county of the sending jail shall pay the cost of the transfer or return of the prisoner under subsection 1.
[PL 2015, c. 335, §16 (NEW).]

3. Reimbursement. Reimbursement for the support of a prisoner who is transferred by a sending jail to a receiving jail or the Department of Corrections is subject to the provisions of this subsection.

A. During a state fiscal year in which at least $12,202,104 has been appropriated to the County Jail Operations Fund and disbursements have been made equal to that amount to the counties as required by Title 34-A, section 1210-D, the receiving jail or the department may not charge the sending jail a per diem rate for the transferred prisoner. [PL 2015, c. 335, §16 (NEW).]

B. During a state fiscal year in which less than $12,202,104 has been appropriated to the County Jail Operations Fund or disbursements have not been made equal to that amount to the counties as required by Title 34-A, section 1210-D, the following provisions apply:

(1) The receiving jail may charge the sending jail a per diem rate for the transferred prisoner;

(2) The rate charged by the receiving jail must equal the per diem per prisoner amount calculated by the department in making the disbursement to the counties under Title 34-A, section 1210-D, subsection 4; and

(3) The department may charge the sending jail an amount that has been negotiated between the department and the jail that does not exceed $108 per diem per prisoner. [PL 2015, c. 335, §16 (NEW).]

C. The sending jail shall reimburse the receiving jail or the department for any costs incurred in the provision of extraordinary medical or surgical treatment for conditions of the prisoner that existed prior to transfer. [PL 2015, c. 335, §16 (NEW).]

D. Payment amounts provided for in this subsection may be adjusted or dispensed with upon terms mutually agreeable to the sheriff of the sending jail and the sheriff of the receiving jail or the department. [PL 2015, c. 335, §16 (NEW).]

[PL 2015, c. 335, §16 (NEW).]

4. Transferee subject to rules. A prisoner transferred under this section is subject to the general rules of the facility to which the prisoner is transferred, except that for a prisoner who has been sentenced:

A. The term of the original sentence remains the same unless altered by the court; [PL 2015, c. 335, §16 (NEW).]

B. The prisoner becomes eligible for deductions as provided in Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 for a prisoner sentenced to imprisonment in a county jail; [PL 2019, c. 113, Pt. C, §76 (AMD).]

C. The prisoner becomes eligible for release and discharge as provided in Title 17-A, section 2314, subsection 1 for a prisoner sentenced to imprisonment in a county jail; [PL 2019, c. 113, Pt. C, §77 (AMD).]

D. The prisoner is entitled to have the time served in the facility under this section deducted from the sentence; and [PL 2015, c. 335, §16 (NEW).]

E. The prisoner becomes eligible for furloughs, work or other release programs, participation in public works and charitable projects and home-release monitoring as authorized by sections 1556, 1605, 1606 and 1659-A and may apply pursuant to the rules governing the sending jail. [PL 2015, c. 335, §16 (NEW).]

[PL 2019, c. 113, Pt. C, §§76, 77 (AMD).]

5. Return of prisoner. A prisoner transferred pursuant to this section must be returned to the sending jail upon the request of the sheriff of the sending jail, the sheriff of the receiving jail or the Commissioner of Corrections.

[PL 2015, c. 335, §16 (NEW).]

6. Commissioner of Corrections to determine temporary housing assignments. If a county that does not have a jail, has a jail that is not fully certified or has a jail that is unfit for occupation is unable to locate space in any other county facility for an adult or juvenile, the sheriff of that county may contact the Commissioner of Corrections for approval to obtain temporary housing in a correctional or detention facility operated by the Department of Corrections. The sheriff of the sending jail shall contact each other county facility in a continuing effort to locate placement in a county facility. When the sheriff of the sending jail locates available space in a county facility, the sheriff of the sending

jail shall transfer the prisoner from the department's correctional or detention facility and place the prisoner in the county facility.
[PL 2015, c. 335, §16 (NEW).]

SECTION HISTORY

PL 2015, c. 335, §16 (NEW). PL 2019, c. 113, Pt. C, §§76, 77 (AMD).

§1558. Transfer from state correctional facilities

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 653, Pt. A, §15 (RP).

§1558-A. Transfer from state correctional facilities

A sheriff may accept custody of a prisoner transferred to the sheriff's jail from state correctional facilities under Title 34-A, section 3063-C. [PL 2015, c. 335, §17 (NEW).]

SECTION HISTORY

PL 2015, c. 335, §17 (NEW).

§1559. Administration of medication

1. Administration of medication by sheriff or deputy. The sheriff of any county may administer to any prisoner in custody any oral or topical medication as prescribed by a licensed physician, nurse practitioner, physician assistant or dentist and approved by the facility health care provider or, if requested by a prisoner, any nonprescription medication in accordance with the directions on its container. The sheriff may delegate this authority to administer medication to the jail administrator or the jail administrator's designee or the facility health care provider.
[PL 2001, c. 153, §1 (AMD).]

2. Limitations on administration of medication. The sheriff or the sheriff's delegate may not administer any prescription or nonprescription medication to any prisoner who has been incarcerated in the county jail for less than 24 hours, unless the sheriff or the delegate has consulted with and received permission to administer that medication from a licensed physician, nurse practitioner, physician assistant or dentist or the facility health care provider.
[PL 2001, c. 153, §1 (AMD).]

3. Insulin injections. This section does not prevent any prisoner from self-administering insulin injections, provided that:

A. A duly licensed physician has authorized that self-administration; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. That self-administration takes place in the presence of the sheriff or the sheriff's delegate. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Statement by prisoner. Before administering any nonprescription medication to any prisoner who has been incarcerated in the county jail for 24 hours or longer, the sheriff or the sheriff's delegate shall obtain a written statement signed by the prisoner, which states that the prisoner has requested that medication and has had no previous adverse allergic reaction to that medication.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Records of medication administered. Every sheriff or the sheriff's delegate shall maintain for at least 2 years a record which includes a description of each prescription and nonprescription medication administered in the county jail and the identity of each person to whom that medication is administered.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Administration of medication not a violation. The administration of medication to prisoners, as provided in this section, is not a violation of Title 32, section 2102, subsection 2, paragraph F, or Title 32, section 3270, or any other law.
[PL 2001, c. 667, Pt. A, §48 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 153, §1 (AMD). PL 2001, c. 667, §A48 (AMD).

§1560. Removal for disease

The removal of prisoners afflicted with dangerous diseases is governed as follows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Removal. If a prisoner in a jail is afflicted with a disease that the Commissioner of Health and Human Services or the commissioner's designee, by medical advice, considers dangerous to the safety and health of other prisoners or of the inhabitants of the municipality, the commissioner or designee shall, by written order, direct the person's removal to some place of safety, to be securely kept and provided for until the commissioner's or designee's further order.
[PL 2007, c. 598, §13 (AMD).]

1-A. Transportation; medical care. A person detained or committed to a jail or correctional facility as a consequence of a violation of a public health measure pursuant to Title 22, section 812 or section 813 or as a consequence of a violation of a prescribed care order pursuant to Title 22, section 820 may be transported by the sheriff or superintendent of the correctional facility for medical care if a court orders the transport. The Department of Health and Human Services shall bear the costs of transportation and the per diem compensation for the accompanying officers.
[PL 2007, c. 359, §2 (NEW).]

2. Return. Upon recovering from the disease, the prisoner shall be returned to the place of confinement.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Removal not escape. A removal under this section is not an escape.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Notice. If the diseased person was committed to the place of confinement by an order of court or judicial process, the Commissioner of Health and Human Services or the commissioner's designee shall send the following to the office of the clerk of court from which the order or process was issued:

A. The order for the diseased person's removal or a copy of the order attested by the commissioner or designee; and [PL 2007, c. 598, §14 (AMD).]

B. A statement describing the actions taken under the order. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2007, c. 598, §14 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 359, §2 (AMD). PL 2007, c. 598, §§13, 14 (AMD).

§1561. Medical care and expenses

Any person incarcerated in a county jail has a right to adequate professional medical care, which does not include medical treatment requested by the prisoner that the facility's treating physician determines unnecessary. The county commissioners may establish medical and dental fees not to exceed $5 for the medical and dental services that are provided pursuant to this section and a fee not to exceed $5 for prescriptions, medication or prosthetic devices. Except as provided in subsection 1, every prisoner may be charged a medical or dental services fee for each medical or dental visit and a fee for each prescription, medication or prosthetic device. The facility shall collect the fee. All money received by a county jail under this section is retained by the jail to offset the costs of medical and dental services fees and fees for prescriptions, medication or prosthetic devices. [PL 1995, c. 201, §1 (RPR).]

1. Exemption from fees. A prisoner is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the prisoner:

A. Receives treatment initiated by county jail staff; [PL 1995, c. 201, §1 (NEW).]

B. Is a juvenile; [PL 1995, c. 201, §1 (NEW).]

C. Is pregnant; [PL 1995, c. 201, §1 (NEW).]

D. Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a prisoner who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the prisoner's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist. The exemption under this paragraph applies only to supportive treatment or services being provided to improve the prisoner's emotional or behavioral functioning; [PL 2015, c. 291, §2 (AMD).]

E. Is an inpatient at a state-funded mental health facility or is a resident at a state-funded facility for individuals with adult developmental disabilities; [PL 2011, c. 542, Pt. A, §53 (AMD).]

F. Is undergoing follow-up treatment; [PL 1995, c. 201, §1 (NEW).]

G. Receives emergency treatment as determined by the county jail's medical or dental staff; or [PL 1995, c. 201, §1 (NEW).]

H. Has less than $15 in the prisoner's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device. [PL 1995, c. 201, §1 (NEW).]

[PL 2015, c. 291, §2 (AMD).]

2. Civil action for recovery of expenses. Notwithstanding the other provisions of this section, a county may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by a county on behalf of a prisoner incarcerated in a facility. The following assets are not subject to judgment under this subsection:

A. Joint ownership, if any, that the prisoner may have in real property; [PL 1995, c. 201, §1 (NEW).]

B. Joint ownership, if any, that the prisoner may have in any assets, earnings or other sources of income; and [PL 1995, c. 201, §1 (NEW).]

C. The income, assets, earnings or other property, both real and personal, owned by the prisoner's spouse or family. [PL 1995, c. 201, §1 (NEW).]

[PL 1995, c. 462, Pt. D, §5 (AMD).]

3. Assets of offender's spouse or family.

[PL 1995, c. 201, §1 (RP).]

4. Limitation on reimbursement rate to medical service providers for services outside county jail. A county may pay to a provider of a medical service for a prisoner an amount no greater than the reimbursement rate applicable to that provider and that service as established by rule of the Department of Health and Human Services for the MaineCare program under Title 22. This limitation applies to all medical care services, goods, prescription drugs and medications provided to a prisoner outside the county jail.

[PL 2003, c. 461, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 201, §1 (RPR). PL 1995, c. 462, §D5 (AMD). PL 2003, c. 461, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 542, Pt. A, §53 (AMD). PL 2015, c. 291, §2 (AMD).

§1562. Restitution

The imposition of restitution at all jails is subject to the following conditions. [PL 1995, c. 197, §1 (RPR).]

1. Damage to property. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by a prisoner or juvenile while the prisoner or juvenile is at the jail. When restitution is imposed at a jail, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the facility where the damage occurred. The facility shall collect that money and apply it to defray the cost of replacement or repair of the items destroyed or damaged.

[PL 1995, c. 197, §1 (RPR).]

2. Medical care. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the jail. When restitution is imposed at a jail, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the jail where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care.

[PL 1995, c. 197, §1 (RPR).]

3. Transfer of prisoner or juvenile. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this subchapter. The facility receiving the prisoner or juvenile shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided.

[PL 1995, c. 197, §1 (NEW).]

4. Money available. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the sheriff, on the dependents of the prisoner. Any payments made

for the support of the dependents that are required by the Department of Health and Human Services may not be used for restitution payments.
[PL 1995, c. 197, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 197, §1 (RPR). PL 2003, c. 689, §B6 (REV).

§1562-A. Death of a person in custody

When a person in custody dies, an examination and inquest must be held, and the sheriff or jailer shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "custody" means custody pursuant to an arrest, confinement in a county jail or other county correctional facility or when the person is on the way to or from a courthouse or any of these places while in the custody of a county law enforcement officer or county corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed. [PL 2011, c. 420, Pt. D, §3 (AMD); PL 2011, c. 420, Pt. D, §6 (AFF).]

SECTION HISTORY

PL 2011, c. 60, §2 (NEW). PL 2011, c. 420, Pt. D, §3 (AMD). PL 2011, c. 420, Pt. D, §6 (AFF).

§1563. Disposal of body of person who died in jail

When a person dies in jail and if the medical examiner determines that an autopsy is not needed under section 1562-A, the jailer or sheriff shall deliver the body to the friends of the deceased, if requested. Otherwise, the jailer or sheriff shall dispose of it for anatomical purposes, as provided in Title 22, chapter 709, unless the deceased at any time requested to be buried, in which case the jailer or sheriff shall bury the body in the common burying ground and the burial expenses must be paid by the municipality in which the deceased had a residence, if any in the State, or, if not, by the State. [PL 2011, c. 60, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2011, c. 60, §3 (AMD).

§1564. Assistance to discharged prisoners

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 623, §5 (RP).

§1565. Menstrual products

Any person who is incarcerated in a jail or other county correctional facility who menstruates has a right to comprehensive access to menstrual products, including, but not limited to, sanitary pads and tampons, provided and available at all times and without inconvenience or charge to the incarcerated person. [PL 2019, c. 139, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 139, §1 (NEW).

SUBCHAPTER 2-A

PREGNANT PRISONERS AND PREGNANT JUVENILES

§1581. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2015, c. 315, §2 (NEW).]

1. Corrections officer. "Corrections officer" means a person who is responsible for the custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to Title 25, section 2803-A.
[PL 2015, c. 315, §2 (NEW).]

2. Labor. "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity and duration to bring about effacement and progressive dilation of the cervix.
[PL 2015, c. 315, §2 (NEW).]

3. Postpartum recovery. "Postpartum recovery" means, as determined by a woman's physician, the period immediately following delivery, including the entire period the woman is in the hospital or infirmary after giving birth.
[PL 2015, c. 315, §2 (NEW).]

4. Restraints. "Restraints" means any physical restraint or mechanical device used to control the movement of a prisoner's or juvenile's body or limbs, including, but not limited to, disposable or soft restraints, handcuffs, a security restraint system that combines handcuffs with a rigid component, leg irons, belly chains, a security or tether chain and a convex shield.
[PL 2015, c. 315, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 315, §2 (NEW).

§1582. Restraint of pregnant prisoners and pregnant juveniles

1. Restraints prohibited. A jail may not use restraints on a prisoner or juvenile known to be pregnant, including during transport to a medical facility or birthing center, labor, delivery and postpartum recovery, unless the jail administrator or the designee of the jail administrator makes a determination that the prisoner or juvenile presents an extraordinary circumstance as described in subsection 2.
[PL 2015, c. 315, §2 (NEW).]

2. Exceptions. Use of restraints on a pregnant prisoner or a pregnant juvenile for an extraordinary circumstance is permitted only if a jail administrator or designee of the jail administrator makes a determination that there is a substantial flight risk or other extraordinary medical or security circumstance that requires restraints to be used to ensure the safety and security of the pregnant prisoner or pregnant juvenile, the staff of the jail or medical facility, other prisoners or juveniles or the public, except that:

A. If a doctor, nurse or other health professional treating the prisoner or juvenile requests that restraints not be used, the corrections officer accompanying the prisoner or juvenile shall immediately remove all restraints; and [PL 2015, c. 315, §2 (NEW).]

B. Notwithstanding this subsection, leg or waist restraints may not be used at any time, and restraints may not be used on a prisoner or juvenile in labor or childbirth. [PL 2015, c. 315, §2 (NEW).]

[PL 2015, c. 315, §2 (NEW).]

3. Procedures. If restraints are used on a pregnant prisoner or pregnant juvenile pursuant to subsection 2:

A. The corrections officer must apply the least restrictive type of restraints in the least restrictive manner necessary; and [PL 2015, c. 315, §2 (NEW).]

B. The jail administrator or designee of the jail administrator shall make written findings within 10 days as to the extraordinary circumstance that required the use of the restraints. These findings must be kept on file by the jail for at least 5 years and must be made available for public inspection, except that individually identifying information of any prisoner or juvenile may not be made public under this paragraph without the prior written consent of the prisoner or juvenile. [PL 2015, c. 315, §2 (NEW).]

[PL 2015, c. 315, §2 (NEW).]

4. Privacy. When a prisoner or juvenile is admitted to a medical facility or birthing center for labor or childbirth, a corrections officer may not be present in the room during labor or childbirth unless specifically requested by medical personnel. If a corrections officer's presence is requested by medical personnel, the corrections officer must be female if practicable.

[PL 2015, c. 315, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 315, §2 (NEW).

§1583. Standards; notice to female prisoners and juveniles

1. Mandatory minimum standards for pregnant prisoners and juveniles. The Commissioner of Corrections shall adopt rules to establish mandatory minimum standards necessary to implement this subchapter and must enforce those standards as provided under Title 34-A, section 1208. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 315, §2 (NEW).]

2. Notice. The jail administrator or the jail administrator's designee shall inform all female prisoners and female juveniles upon admission to the jail of the mandatory minimum standards adopted pursuant to subsection 1.

[PL 2015, c. 315, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 315, §2 (NEW).

SUBCHAPTER 3

PRISON LABOR

§1601. Employment of prisoners generally

The county commissioners may authorize the employment of prisoners committed for crime, for the benefit of the county or of their dependent families, in some suitable manner not inconsistent with their security and the discipline of the prison. The commissioners may pay the proceeds of that labor, less a reasonable sum to be deducted for the cost of maintenance of those prisoners, to the dependent families of the prisoners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

This section does not apply to sections 1602 and 1603. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1602. Charitable organizations

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 629, §1 (RP).

§1603. Contracts subject to cancellation or suspension

Except for contracts made under section 1602, any contract for the employment of prisoners made by the county commissioners with any person, firm or corporation, shall be made subject to the right of the county commissioners to withdraw, cancel or suspend the contract in whole or in part. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1604. Pay for labor of prisoners before sentence

Any person charged with a crime or awaiting sentence who, while confined in any jail where provision for labor has been made, chooses to labor as provided for persons under sentence, shall receive such sum for that labor as, in the judgment of the commissioners of that county, that person has earned. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1605. Employment of county jail prisoners

1. Order of release; purpose. Any person sentenced or committed to a county jail for crime, nonpayment of a fine or forfeiture or court order or criminal or civil contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

A. Employment; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Conducting that person's own business or occupation, including, in the case of a person primarily responsible for the family's housekeeping and domestic needs, housekeeping and attending the needs of that family; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Attendance at a weekly religious service; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Attendance at an educational institution; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Medical treatment; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Voluntary services within the county in which the jail is located; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. To work or provide service to the victim of the crime in accordance with Title 17-A, chapter 69, but only with the express approval of the victim. [PL 2019, c. 113, Pt. C, §78 (AMD).]

[PL 2019, c. 113, Pt. C, §78 (AMD).]

2. Grant of privilege; withdrawal.

[PL 2001, c. 171, §1 (RP).]

2-A. Grant of privilege. The sheriff may grant a privilege described in subsection 1.

A. [PL 2003, c. 413, §1 (RP).]

B. [PL 2003, c. 413, §1 (RP).]

[PL 2003, c. 413, §1 (AMD).]

3. Wages, self-employment income; collection. If a prisoner is employed for wages or salary, the sheriff shall collect the wages or salary or require the prisoner to turn over the wages or salary in full when received. If the prisoner is self-employed, the self-employment income must be turned over to the sheriff. The sheriff shall deposit the income in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salaries are not subject to trustee process in the hands of either the employer or the sheriff, and the self-employment income is not subject to trustee process in the hands of the sheriff during the prisoner's term and may be disbursed only as provided in this section; but for tax purposes they are income of the prisoner.

[PL 2003, c. 413, §2 (AMD).]

3-A. Wages, self-employment income; collection.

[PL 2003, c. 413, §3 (RP).]

4. Board; transportation. Every prisoner gainfully employed is liable for the cost of board in the jail, as fixed by the county commissioners. If necessarily absent from jail at a mealtime, the prisoner shall by request be furnished with an adequate nourishing lunch to carry to work. The sheriff shall charge the prisoner's account, if there is one, for board.

If prisoners are gainfully self-employed, they shall pay the sheriff for board, in default of which privileges under this section are automatically forfeited.

If the jail food is furnished directly by the county, the sheriff shall account for and pay over these board payments to the county treasurer. The county commissioners may provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Disbursements. The wages or salaries of employed prisoners and employment income of self-employed prisoners must be disbursed by the sheriff for the following purposes, in the following order:

A. The board of the prisoners; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Necessary travel expenses to and from work and other incidental expenses of the prisoners; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Support of the prisoners' dependents, if any; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Payments, either in full or ratably, of restitution, and of the prisoners' obligations, acknowledged in writing, in accordance with Title 17-A, chapter 69, or that have been reduced to judgment; [PL 2019, c. 113, Pt. C, §79 (AMD).]

D-1. Any fine, forfeiture, penalty or fee imposed upon a defendant; [PL 2003, c. 413, §4 (NEW).]

D-2. Any amount of attorney's fees or other expense authorized by the court at the request of the defendant or attorney and actually paid by the State on behalf of the defendant on the grounds that the defendant has been found to be indigent; [PL 2003, c. 413, §4 (NEW).]

D-3. Any surcharge imposed by Title 4, section 1057; and [PL 2003, c. 413, §4 (NEW).]

E. The balance, if any, to the prisoners upon their release. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 113, Pt. C, §79 (AMD).]

5-A. Disbursements.

[PL 2003, c. 413, §5 (RP).]

6. Restitution disbursements. Notwithstanding subsection 5, the wages or salaries of employed prisoners, employment income of self-employed prisoners or income from any other source must be disbursed by the sheriff in accordance with any restitution authorized by section 1562. These disbursements may not be authorized until any disbursements required by subsection 5, paragraphs A to D have been made.

[PL 2003, c. 413, §6 (AMD).]

7. Employment in other county. The sheriff may arrange with another sheriff for the employment of the prisoner in the other's county, and while so employed to be in the other's custody, but in other respects to be and continue subject to the commitment.

[PL 2003, c. 413, §7 (AMD).]

7-A. Employment in other county.

[PL 2003, c. 413, §8 (RP).]

8. Evaluation of need of dependents. The welfare director or the overseers of the poor of the municipality in which the prisoner's dependents reside, or the Department of Health and Human Services, shall at the request of the court investigate and report to the court the amount necessary for the support of the prisoner's dependents.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

9. Denial of privilege. The sheriff may refuse to permit prisoners to exercise their privileges to leave the jail, as provided in subsection 1, for any breach of discipline or other violation of jail regulations. Any prisoner so disciplined may petition either the District Court or the Superior Court

for a review of that disciplinary action. The court, after review, shall make any order that it considers appropriate.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Violations. Persons who willfully violate the terms of their release relating to the time for reporting to their place of employment or to any other place to which they may be released under subsection 1, paragraphs A to E, or for reporting back to the county jail may be punished by imprisonment for not more than 60 days. A prisoner who does not return to the county jail within 48 hours from the time scheduled to return is guilty of escape under Title 17-A, section 755.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Rules of procedure. Proceedings under this section are subject to the rules of procedure adopted under Title 4, section 9.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 171, §§1-8 (AMD). PL 2003, c. 413, §§1-8 (AMD). PL 2003, c. 689, §B6 (REV). PL 2019, c. 113, Pt. C, §§78, 79 (AMD).

§1606. Prisoner participation in public works projects

1. Participation in public works projects authorized. The sheriff in charge of a county jail, or the sheriff of a county that shares a regional jail with other counties, may permit certain inmates of that jail to participate in public works-related projects or in the improvement of property owned by charitable organizations in that county or another county. A project or improvement must be supervised by the sheriff of the county in which the project or improvement is being conducted. The sheriff may request payment from charitable organizations for the transportation of the prisoners and for the transportation and per diem compensation for any guards who accompany the prisoners. For the purposes of this section, "charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State that is exempt from federal income taxation under the United States Internal Revenue Code of 1986, Section 501(a), because the nonprofit organization is described in the United States Internal Revenue Code of 1986, Section 501(c)(3).
[PL 2011, c. 506, §1 (AMD).]

1-A. Court approval.
[PL 2003, c. 413, §9 (RP).]

2. Sentence prorated. Inmates participating in a public works-related project or an improvement of property owned by a charitable organization under this section may have their sentences to the jail prorated at the rate of up to one day removed from the sentences for every 16 hours of participation in the project, except that inmates committed to the custody of the sheriff for nonpayment of fines under Title 17-A, section 1711 must have their sentences prorated at the rate that is applicable to the individual inmate pursuant to Title 17-A, section 1711, subsection 4, paragraph A, subparagraph (1).
[PL 2019, c. 113, Pt. C, §80 (AMD).]

3. Participation not deemed employment. Participation in this type of project may not be deemed employment under section 1605, subsections 3 to 8.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 1989, c. 629, §2 (AMD). RR 1991, c. 2, §114 (COR). PL 1997, c. 54, §2 (AMD). PL 2001, c. 171, §9 (AMD). PL 2003, c. 413, §9 (AMD). PL 2011, c. 506, §1 (AMD). PL 2013, c. 519, §9 (AMD). PL 2019, c. 113, Pt. C, §80 (AMD).

§1607. Family support

A prisoner may not participate in a work program under section 1605 or any other program administered by the sheriff by which a prisoner is able to generate money unless the prisoner consents to pay at least 25% of that money for the support of that prisoner's dependent children if the parent, legal guardian or legal custodian of that prisoner's dependent child requests that payment. Upon the written request of a parent, legal guardian or legal custodian, the sheriff of the county jail where the prisoner is incarcerated shall collect and disburse to the parent, legal guardian or legal custodian that portion of the prisoner's money to be paid for the support of that prisoner's dependent children. This section does not apply to any prisoner making payments for the support of a dependent child pursuant to a support order issued by a court or by the Department of Health and Human Services. [PL 1997, c. 358, §3 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1997, c. 358, §3 (NEW). PL 2003, c. 689, §B6 (REV).

SUBCHAPTER 4

MISCELLANEOUS PROVISIONS

§1651. Examination of jails; board of visitors

1. Examination. At the commencement of each session required by law, the county commissioners shall examine the jail in their county and take necessary precautions for the security of prisoners, for the prevention of infection and sickness and for the accommodations of the prisoners. [PL 2003, c. 482, Pt. A, §1 (NEW).]

2. Appointment. The sheriff for each county shall appoint a board of 5 visitors for each correctional facility under the sheriff's supervision.

A. Members of the boards of visitors serve for terms of one year except that, of the initial appointments, 2 must be for terms of 3 years, 2 must be for terms of 2 years and one must be for a term of one year. [PL 2003, c. 482, Pt. A, §1 (NEW).]

B. Members of the boards of visitors are eligible for reappointment at the expiration of their terms. The boards of visitors must be representative of a broad range of professionals, family members and citizens interested in the well-being of prisoners, including representatives of advocacy groups for human and civil rights, medical and psychiatric professionals, persons who have served in corrections settings and other interested citizens. [PL 2003, c. 482, Pt. A, §1 (NEW).]

C. A member of the Legislature may not serve on a board of visitors. [PL 2003, c. 482, Pt. A, §1 (NEW).]

D. The sheriffs of 2 or more counties, at their discretion, may appoint a joint board of visitors of 5 or more members. [PL 2003, c. 482, Pt. A, §1 (NEW).]

[PL 2003, c. 482, Pt. A, §1 (NEW).]

3. Powers. Each board of visitors shall inspect the correctional facility to which it is assigned, subject to reasonable restrictions required by the sheriff to ensure the security of the jail, and make recommendations to the sheriff with respect to inmates who are mentally ill.
[PL 2003, c. 482, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 482, §A1 (RPR).

§1652. Jails to be clean and healthful

The sheriff shall see that the county jail is kept clean and healthful and pay strict attention to the personal cleanliness of the prisoners. [PL 1997, c. 623, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 623, §6 (AMD).

§1653. Bible, books and instruction for prisoners

The jailer, at the county's expense, shall have available to each prisoner who is able to read a copy of the Bible, and to all, on Sundays, such religious instruction as may be obtained without expense, and to those who may be benefited hereby, instruction in reading, writing and arithmetic one hour every evening except on Sunday. The jailer shall receive for their use from whatever source, by loan or contribution, any books or literature of a moral or religious tone and exclude those of opposite tendencies. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1654. Supplies for jails; accounts audited

The county commissioners of the several counties shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, potable water, fuel, bedding and clothing for the jails and the prisoners in the jails, to be furnished and purchased under their direction and at the expense of the counties. A county commissioner may not be interested directly or indirectly in the purchase of any such supplies or in any contract for such supplies made by the board of which and while the county commissioner is a member, and all contracts made in violation of this provision are void. A suitable person must be employed to prepare the foods of the prisoners in each county at the expense of the county. The service of the food to the prisoners is under the general direction of the jailer, master or keeper. The sheriff shall appoint the person employed to prepare the food of the prisoners subject to the approval of the county commissioners. The county commissioners may at any time direct specific rations or articles of food, clothing, soap, fuel or other necessities to be provided to the prisoners. The bills and accounts for supplies furnished and the items of expense incurred in preparing and serving these supplies must be audited pursuant to section 951. [PL 2019, c. 126, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 16, §10 (REV). PL 2015, c. 44, §6 (AMD). PL 2019, c. 126, §3 (AMD).

§1655. Cumberland commissioners annually advertise for supplies

The county commissioners of the County of Cumberland may each year, as soon after January 1st as possible, estimate the amount of food, fuel, clothing and supplies as far as practicable which will be required by the county jail and for the support of the prisoners in the jail for the current year. They shall advertise for sealed proposals for furnishing those supplies according to specifications furnished by them, in the daily papers of the City of Portland, 3 days successively, at least 14 days before the

time limited for the reception of those proposals, at which time they shall examine all the proposals and award the contract to the lowest responsible bidder. The county commissioners shall procure such other necessary supplies and articles for the foregoing purposes as may not be furnished by contract and account for the same in the manner provided for in section 1654. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1656. Transfer of prisoners when jail unfit or insecure

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 887, §4 (AMD). PL 1995, c. 368, §R7 (AMD). PL 1997, c. 464, §6 (AMD). PL 2001, c. 458, §2 (AMD). PL 2007, c. 653, Pt. A, §16 (RP).

§1657. Fines applied to building and repair of jail

All fines imposed by this chapter and chapter 1, subchapter VI; Title 14, section 555; and Title 14, chapter 203, subchapter IV, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offense is committed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§1658. Additional accommodations

The county commissioners may make such additions in workshops, fences and other suitable accommodations in, adjoining or appurtenant to the jails in the several counties as may be found necessary for the safekeeping, governing and employing of offenders committed to the jails by authority of the State or the United States. For the better employing of these offenders, they may lease or purchase necessary lands or buildings anywhere within their respective counties and may authorize the employment on those lands for the benefit of the county or of dependent families of prisoners committed for crime, as provided in section 1601. Whenever the county commissioners determine that the use of the land and buildings is unnecessary for that use, they may sell and dispose of the land and buildings in the manner required by law. The county commissioners may raise by loan of their respective counties, or otherwise, a total sum not exceeding $5,000 to make those purchases, alterations and improvements, and may expend so much of that amount as is necessary. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The county commissioners may purchase, lease, contract or enter into agreements for the use of facilities to house minimum security prisoners who have been sentenced to the county jail. These prisoners must be involved in restitution, work or educational release, or rehabilitative programs. The funds to purchase, lease or contract for these facilities and to provide any programs in these facilities may be taken from the funds received by the counties pursuant to former Title 34-A, section 1210-A and Title 34-A, section 1210-B. Any facilities used to house prisoners pursuant to the authority granted by this section are subject to standards established by the Department of Corrections pursuant to Title 34-A, section 1208-A. [PL 2007, c. 377, §6 (AMD); PL 2007, c. 377, §17 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 321, §1 (AMD). PL 1999, c. 127, §A44 (AMD). PL 2007, c. 377, §6 (AMD). PL 2007, c. 377, §17 (AFF).

§1658-A. Regional county facilities

The county commissioners of 2 or more counties jointly may plan, finance, construct and operate regional correctional facilities. County commissions that jointly act pursuant to this section shall adhere to the provisions of chapter 115 to the extent those provisions are applicable. [PL 2001, c. 489, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 489, §1 (NEW).

§1659. Home-release monitoring program

(REPEALED)

SECTION HISTORY

PL 1991, c. 224 (NEW). PL 1991, c. 783, §2 (AMD). PL 1999, c. 247, §§1-7 (AMD). PL 2001, c. 171, §§10-14 (AMD). PL 2003, c. 413, §§10-13 (AMD). PL 2005, c. 68, §1 (AMD). PL 2009, c. 391, §5 (RP).

§1659-A. Community confinement monitoring program

The sheriff of each county shall establish a program to permit certain inmates to serve a portion of their sentence of imprisonment in community confinement monitored by the county or a contract agency or another county or its contract agency. The county may contract only with a community confinement monitoring agency approved by the Department of Corrections. [PL 2015, c. 335, §18 (AMD).]

1. Petition. A sheriff, upon written request from an inmate eligible for participation in a community confinement monitoring program and recommended by the jail administrator, may assign the inmate to participate in a community confinement monitoring program. At the time of granting this privilege, the sheriff shall determine whether the inmate is responsible for the cost of participating in the program based on the inmate's ability to pay.
[PL 2009, c. 391, §6 (NEW).]

2. Eligibility. Inmates are eligible to participate in a community confinement monitoring program if:

A. The inmate's residence is located within the State and in a location that does not in any way restrict the adequate monitoring of the inmate; [PL 2009, c. 391, §6 (NEW).]

B. The inmate has been sentenced to the county jail; [PL 2009, c. 391, §6 (NEW).]

C. The inmate is not serving a sentence for a sex offense or a sexually violent offense as defined under Title 34-A, section 11203; [PL 2009, c. 391, §6 (NEW).]

D. The inmate has a verified security classification level of "medium" or "minimum" and scores "moderate" or "less" on a validated risk assessment tool as defined by the Department of Corrections; [PL 2015, c. 335, §19 (AMD).]

E. The inmate serves a minimum of 1/3 of the term of imprisonment, or, in the case of a split sentence, a minimum of 1/3 of the unsuspended portion, prior to participating in a community confinement monitoring program. In calculating the amount of time served, deductions earned under Title 17-A, section 2302, subsection 1; section 2305; section 2307; section 2308; section

2309; section 2310; or section 2311 and time reductions earned for charitable or public works projects under section 1606 must be counted; and [PL 2019, c. 113, Pt. C, §81 (AMD).]

F. The inmate agrees to abide by the conditions of release pursuant to this section and any additional conditions imposed by the sheriff or jail administrator. [PL 2009, c. 391, §6 (NEW).]

[PL 2019, c. 113, Pt. C, §81 (AMD).]

3. Participation requirements. The following requirements of this subsection apply to inmates participating in a community confinement monitoring program.

A. Each inmate assigned to community confinement pursuant to this section shall participate in a structured program of work, education or treatment. Participation in a community confinement monitoring program may not be solely for the purpose of living at home. [PL 2009, c. 391, §6 (NEW).]

B. At a minimum, the inmate shall report in person at least once per week to a community confinement monitor, even if being electronically monitored. [PL 2009, c. 391, §6 (NEW).]

C. The jail administrator, or a designee, shall restrict in advance any travel or movement limiting the inmate's travel to specific times and places directly related to approved employment, formal education, job search, public service work, treatment or other specific purposes. [PL 2009, c. 391, §6 (NEW).]

D. The inmate shall agree to searches of the inmate's person, residence, electronic monitoring equipment, vehicle, papers and effects and any property under the inmate's control, without a warrant and without probable cause, for items prohibited by law or by condition of participation in the program or otherwise subject to seizure or inspection upon the request of the jail administrator, a community confinement monitor or any law enforcement officer without prior notice. The sheriff or jail administrator may prohibit the inmate from residing with anyone who does not consent to a search or inspection of the residence to the extent necessary to search or inspect the inmate's person, residence, electronic equipment, papers and effects. [PL 2009, c. 391, §6 (NEW).]

E. The inmate may not use alcohol or illegal drugs or other illegal substances or misuse any other legal substance. [RR 2017, c. 2, §13 (COR).]

F. The inmate shall submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the jail administrator or a community confinement monitor. [PL 2009, c. 391, §6 (NEW).]

G. If stopped or arrested by a law enforcement officer, the inmate shall notify that officer of the inmate's participation in a community confinement monitoring program. Within one hour of having been stopped or arrested, the inmate shall notify the jail administrator or a community confinement monitor. [PL 2009, c. 391, §6 (NEW).]

H. The inmate may not violate state or federal criminal law or any conditions of the inmate's release. [PL 2009, c. 391, §6 (NEW).]

I. As a condition of participation of an inmate in a community confinement monitoring program, the sheriff may, based upon an inmate's ability to pay, require the inmate to pay a fee including an electronic monitoring fee, if applicable, a substance testing fee, if applicable, or both. The fee charged may include the costs associated with a community confinement program for people who do not have the financial resources to pay the fees. [PL 2009, c. 391, §6 (NEW).]

J. The inmate shall sign a statement verifying that the inmate understands and agrees to all of the conditions of release and participation in a community confinement monitoring program. [PL 2009, c. 391, §6 (NEW).]

[RR 2017, c. 2, §13 (COR).]

4. Termination of the privilege. The sheriff, jail administrator or a community confinement monitor may terminate an inmate's participation in a community confinement monitoring program at any time and return the inmate to the custody of the county jail for any violation of the conditions of the inmate's release or upon the loss of an appropriate residence on the part of the inmate.
[PL 2009, c. 391, §6 (NEW).]

5. Crimes. The following penalties apply to violations of this section.

A. An inmate is guilty of the crime of violating a condition of release from the community confinement monitoring program if the inmate intentionally or knowingly violates a condition of release. Violation of this paragraph is a Class D crime. [PL 2011, c. 464, §28 (RPR).]

B. An inmate is guilty of the crime of escape from the community confinement program as provided pursuant to Title 17-A, section 755, subsection 1-E. [PL 2011, c. 464, §28 (RPR).]
[PL 2011, c. 464, §28 (RPR).]

6. Minimum standards supervision of inmates in the community confinement monitoring program. The Department of Corrections shall establish minimum policy standards for the monitoring of inmates in the community confinement monitoring program.
[PL 2015, c. 335, §20 (AMD).]

7. Program funding. Funds collected pursuant to this section must be forwarded to an account designated by the Department of Corrections for the purpose of supporting pretrial, diversion or reentry activities. Community confinement monitoring program funds must be accounted for by the county through the normal budget process.
[PL 2015, c. 335, §20 (AMD).]

8. Terminally ill or incapacitated inmate. The sheriff may grant the privilege of participation in a community confinement monitoring program to an inmate who does not meet the requirements of subsection 2, paragraphs C and E if the jail's treating physician has determined that the inmate has a terminal or severely incapacitating medical condition and that care outside the jail is medically appropriate. Except as set out in this subsection, the inmate shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or facility that is a licensed hospice program pursuant to Title 22, section 8622 approved by the sheriff. As approved by the sheriff, the inmate may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services and, subject to approval by the sheriff, may live at home while receiving these services. The sheriff may exempt an inmate participating in community confinement monitoring pursuant to this subsection from any requirements under subsection 3 that the sheriff determines to be inapplicable. The inmate shall provide any information pertaining to the inmate's medical condition or care that is requested by the sheriff at any time while the inmate is in the community confinement monitoring program. If the sheriff determines that the inmate has failed to fully comply with a request, or if at any time the jail's treating physician determines that the inmate does not have a terminal or severely incapacitating medical condition or that care outside the jail is not medically appropriate, the sheriff shall terminate the inmate's participation in the community confinement monitoring program. Except as set out in this subsection, all other provisions of this section apply to community confinement monitoring pursuant to this subsection.
[PL 2009, c. 391, §6 (NEW).]

9. Effective date. This section is effective January 1, 2010.
[PL 2009, c. 391, §6 (NEW).]

SECTION HISTORY

PL 2009, c. 391, §6 (NEW). PL 2011, c. 464, §28 (AMD). PL 2015, c. 335, §§18-20 (AMD). RR 2017, c. 2, §13 (COR). PL 2017, c. 407, Pt. A, §119 (AMD). PL 2019, c. 113, Pt. C, §81 (AMD).

§1660. Report

1. Annual report. Annually by January 15th, beginning in 2003, the Commissioner of Corrections shall submit a report in accordance with this section to the joint standing committee of the Legislature having jurisdiction over criminal justice matters.
[PL 2001, c. 171, §15 (NEW).]

2. Information on releases. The report required in this section must include the following information for each county corrections facility about releases of inmates from the facility pursuant to sections 1605, 1606 and 1659-A and former section 1659 during the prior calendar year:

A. The total number of inmates who were granted the privilege of release; [PL 2001, c. 171, §15 (NEW).]

B. The number of inmates that were granted the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

(1) Employment;

(2) Participation in public works-related projects;

(3) Participation in a home-release monitoring program;

(3-A) Participation in a community confinement monitoring program; and

(4) All other purposes; [PL 2009, c. 391, §7 (AMD).]

C. The number of inmates who requested and were denied the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

(1) Employment;

(2) Participation in public works-related projects;

(3) Participation in a home-release monitoring program;

(3-A) Participation in a community confinement monitoring program; and

(4) All other purposes; [PL 2009, c. 391, §7 (AMD).]

D. With respect to each inmate who was granted the privilege of release and who subsequently had the privilege revoked:

(1) The total number of such inmates;

(2) The purpose for which the release was granted;

(3) The entity that revoked the privilege;

(4) The reasons for the revocation; and

(5) Whether the revocation was appealed and the result of that appeal; and [PL 2001, c. 171, §15 (NEW).]

E. Any other information that the Commissioner of Corrections believes appropriate to accurately inform the Legislature about sheriffs' handling of release decisions. [PL 2001, c. 171, §15 (NEW).]
[PL 2009, c. 391, §7 (AMD).]

3. Information on furloughs. The report must include the following information for each county corrections facility about inmates furloughed from the facility pursuant to section 1556 for treatment for mental conditions during the prior calendar year:

A. The total number of such furloughs; [PL 2001, c. 659, Pt. F, §3 (NEW).]

B. The longest, shortest and average length of such furloughs; and [PL 2001, c. 659, Pt. F, §3 (NEW).]

C. The type of facilities or care to which the inmates were furloughed. [PL 2001, c. 659, Pt. F, §3 (NEW).]

[PL 2001, c. 659, Pt. F, §3 (NEW).]

4. Information on pregnant prisoners and pregnant juveniles. The report required in this section must include the following information for each jail about pregnant prisoners and pregnant juveniles restrained pursuant to subchapter 2-A during the prior calendar year:

A. The total number of pregnant prisoners and pregnant juveniles; [PL 2015, c. 315, §3 (NEW).]

B. The total number of pregnant prisoners and pregnant juveniles who were restrained; [PL 2015, c. 315, §3 (NEW).]

C. The length of time each pregnant prisoner or pregnant juvenile was restrained; and [PL 2015, c. 315, §3 (NEW).]

D. The reasons for each instance of restraining a pregnant prisoner or pregnant juvenile. [PL 2015, c. 315, §3 (NEW).]

[PL 2015, c. 315, §3 (NEW).]

SECTION HISTORY

PL 2001, c. 171, §15 (NEW). PL 2001, c. 659, §§F2,3 (AMD). PL 2009, c. 391, §7 (AMD). PL 2015, c. 315, §3 (AMD).

§1661. Collaboration among counties

A county may collaborate with another county or counties to seek grants or establish community corrections programs or initiatives. [PL 2015, c. 335, §21 (NEW).]

SECTION HISTORY

PL 2015, c. 335, §21 (NEW).

§1662. County jail and regional jail reporting

1. County jail and regional jail interjail boarding rates. Beginning November 1, 2017, a county jail or regional jail shall report to the Department of Corrections on a form provided by and on a schedule established by the department regarding interjail boarding rates. The county jail or regional jail shall identify the types of agreements regarding boarding of inmates that it has with other jails. By January 15th each year, beginning January 15, 2018, the Department of Corrections shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and corrections matters regarding data derived from the interjail boarding rate information and any recommendations from the jails or the department.

[PL 2017, c. 214, §2 (NEW).]

2. County jail and regional jail financial audits. Beginning November 1, 2017, a county jail or regional jail shall report to the Department of Corrections on a schedule established by the department regarding financial audits performed for the jails. By January 15th each year, beginning January 15, 2018, the Department of Corrections shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and corrections matters regarding data derived from the financial audit information provided by the jails and any recommendations from the jails or the department.

[PL 2017, c. 214, §2 (NEW).]

3. Pretrial detention. Beginning November 1, 2017, a county jail or regional jail shall report twice per month to the Unified Criminal Docket in the judicial region in which the jail is located on the

pretrial detention population in the jail. The jail shall report on the form provided by the Unified Criminal Docket.
[PL 2017, c. 214, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 214, §2 (NEW).

SUBCHAPTER 5

CRIMINAL JUSTICE PLANNING COMMITTEES

§1671. Criminal justice planning committees

1. Establishment. Each county, or each county working jointly with another county or other counties or with the Department of Corrections, may establish a local criminal justice planning committee, referred to in this subchapter as "the committee."
[PL 2007, c. 653, Pt. A, §17 (AMD).]

2. Membership. Each committee is composed of representatives of various criminal justice stakeholder groups, including, but not limited to:

A. County commissioners; [PL 2007, c. 377, §7 (NEW).]

B. Judges; [PL 2007, c. 377, §7 (NEW).]

C. Prosecutors; [PL 2007, c. 377, §7 (NEW).]

D. Sheriffs; [PL 2007, c. 377, §7 (NEW).]

E. Jail administrators; [PL 2007, c. 377, §7 (NEW).]

F. Adult probation officers; [PL 2007, c. 377, §7 (NEW).]

G. State and municipal law enforcement officers; [PL 2007, c. 377, §7 (NEW).]

H. Defense attorneys; [PL 2007, c. 377, §7 (NEW).]

I. The courts; [PL 2007, c. 377, §7 (NEW).]

J. Victim advocates; and [PL 2007, c. 377, §7 (NEW).]

K. Members of the public. [PL 2007, c. 377, §7 (NEW).]
[PL 2007, c. 377, §7 (NEW).]

3. Duties. Each committee shall collaborate with each other and coordinate efforts to educate, update and increase the use of evidence-based community corrections practices at the local level. The duties of each committee include:

A. Developing and adopting a mission statement consistent with the purposes of the State Board of Corrections under Title 34-A, section 1801; [PL 2015, c. 329, Pt. A, §18 (AMD).]

B. Regularly assessing county correctional needs and determining what community correctional programs best meet those needs; and [PL 2007, c. 653, Pt. A, §18 (AMD).]

C. [PL 2007, c. 653, Pt. A, §18 (RP).]

D. [PL 2007, c. 653, Pt. A, §18 (RP).]

E. Monitoring and overseeing community corrections investments and programming, tracking outcomes and making necessary recommendations for change to ensure efficient and effective evidence-based community corrections programming. [PL 2007, c. 377, §7 (NEW).]
[PL 2015, c. 329, Pt. A, §18 (AMD).]

4. Reports.
[PL 2007, c. 653, Pt. A, §19 (RP).]

5. Collaboration.
[PL 2007, c. 653, Pt. A, §20 (RP).]

SECTION HISTORY

PL 2007, c. 377, §7 (NEW). PL 2007, c. 653, Pt. A, §§17-20 (AMD). PL 2015, c. 329, Pt. A, §18 (AMD).

CHAPTER 15

LOCAL GOVERNMENT RECORDS

§1701. Short title

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1995, c. 148, §12 (RP).

§1702. Definitions

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1995, c. 148, §12 (RP).

§1703. General requirements

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1995, c. 148, §12 (RP).

§1704. Local Government Records Board

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1995, c. 148, §12 (RP).

§1705. Powers and duties of board

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1995, c. 148, §12 (RP).

§1706. Assistance to local governments

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1995, c. 148, §12 (RP).

§1707. Violation

(REPEALED)

SECTION HISTORY

PL 1989, c. 304, §5 (NEW). PL 1991, c. 172, §3 (AMD). PL 1995, c. 148, §12 (RP).

CHAPTER 17

LINCOLN AND SAGADAHOC MULTICOUNTY JAIL AUTHORITY

SUBCHAPTER 1

GENERAL PROVISIONS

§1801. Short title

This chapter may be known and cited as "the Lincoln and Sagadahoc Multicounty Jail Authority Act." [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1802. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 228, §1 (NEW).]

1. Authority. "Authority" or "jail authority" means the authority formed under this chapter and Title 13, chapter 81.
[PL 2003, c. 228, §1 (NEW).]

2. Commissioner. "Commissioner" or "county commissioner" means a person elected or appointed to the Lincoln County or Sagadahoc County board of commissioners.
[PL 2003, c. 228, §1 (NEW).]

3. Consent of county. "Consent of county" means a vote taken pursuant to section 122 or a vote taken at an election at which a majority of the legal votes of the voters of a county voting at the election are cast in favor of a question seeking approval of funding construction of a jail facility through the issuance of bonds or the guarantee by the counties of bonds issued by the jail authority.
[PL 2003, c. 688, Pt. C, §14 (AMD); PL 2003, c. 688, Pt. C, §16 (AFF).]

3-A. County; counties. "County" means either Lincoln County or Sagadahoc County, and "counties" means both Lincoln County and Sagadahoc County.
[PL 2003, c. 688, Pt. C, §15 (NEW); PL 2003, c. 688, Pt. C, §16 (AFF).]

4. Director. "Director" and "board of directors" means the directors of the jail authority.
[PL 2003, c. 228, §1 (NEW).]

5. Jail facility. "Jail facility" or "jail" means any land area, structure, location or equipment, or combination of them, used for the confinement of prisoners.
[PL 2003, c. 228, §1 (NEW).]

6. Municipality. "Municipality" means a city or town.
[PL 2003, c. 228, §1 (NEW).]

7. Municipal officers. "Municipal officers" means the municipal officers or councillors of a town or the mayor and municipal officers or councillors of a city.
[PL 2003, c. 228, §1 (NEW).]

8. Operating and governance agreement. "Operating and governance agreement" means the documents that set the terms of the jail authority operations and structure for governance.

[PL 2003, c. 228, §1 (NEW).]

9. Revenues. "Revenues" means the proceeds of bonds, all revenues, rates, tolls, assessments, rents, transportation charges, reimbursement from the State excluding community corrections money, boarding fees and inmate-related medical reimbursements, and other charges and receipts derived by the jail authority from the operation of a multicounty jail, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties, and must include proceeds from assessments when the power of assessment has been granted to the jail authority under sections 1952 and 1953.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW). PL 2003, c. 688, §§C14,15 (AMD). PL 2003, c. 688, §C16 (AFF).

§1803. Relationship to other laws

This chapter provides an alternative method for carrying out the purposes of this chapter and is supplemental to powers conferred by other laws, and is not in derogation of any existing powers. Any reference to "county jail" or "jail" in the Maine Revised Statutes includes the Lincoln and Sagadahoc Multicounty Jail. [PL 2011, c. 604, §2 (AMD).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW). PL 2011, c. 604, §2 (AMD).

§1804. Exemption from taxation

1. Exemption. The property, both real and personal, rights and franchises of the jail authority formed under this chapter are exempt from taxation.
[PL 2003, c. 228, §1 (NEW).]

2. Payments in lieu of taxes. The jail authority may elect to make payments in lieu of taxes to communities in which its property is located or utilized.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1805. Governmental function

The Lincoln and Sagadahoc Multicounty Jail shall administer and exercise the authority granted to it under this chapter. The carrying out of its powers and duties is considered the performance of an essential governmental function. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

SUBCHAPTER 2

ORGANIZATION

§1851. Formation

The formation of the multicounty jail authority must be in accordance with this subchapter. [PL 2003, c. 228, §1 (NEW).]

1. Commissioners; meeting. The commissioners shall meet to consider all available information regarding the jail authority. Notwithstanding section 122, the commissioners shall consider a site or

sites for the multicounty jail. The site or sites are not required to be in the county seat of either county. If the commissioners vote to proceed with the formation of the jail authority, which vote requires a majority vote of the commissioners of each county, they shall hold public hearings pursuant to the provisions of subsection 2.
[PL 2003, c. 228, §1 (NEW).]

2. Public hearing. A public hearing must be held in Lincoln County and Sagadahoc County. The notice of public hearing must contain the name of the proposed authority; the territory of the proposed authority, which must be within the borders of Lincoln County and Sagadahoc County; the locations identified as potential sites for the multicounty jail; and any other information the commissioners determine relevant. The public hearing must be held at a convenient place within the counties. Notice of the public hearing must be given to the municipal officers of each municipality within Lincoln County and Sagadahoc County and must be published at least once in a newspaper of general circulation in each county 14 days prior to the date of the public hearing.
[PL 2003, c. 228, §1 (NEW).]

3. Organizational meeting. If after the public hearings the commissioners desire to form a jail authority, they shall call an organizational meeting. Notice of the meeting must be published and the meeting held in the same manner as provided in subsection 2. A majority of the commissioners from each county shall attend the organizational meeting, and the vote to form a multicounty jail authority requires a majority vote of the commissioners of each county. At the organizational meeting, the commissioners shall discuss the terms of an operating and governance agreement among the participating counties. The operating and governance agreement determines:

A. The number and qualifications of the directors; [PL 2003, c. 228, §1 (NEW).]

B. The terms of the directors, including provisions for initial terms and ongoing terms; and [PL 2003, c. 228, §1 (NEW).]

C. Provisions similar to paragraphs A and B regarding an advisory committee. [PL 2003, c. 228, §1 (NEW).]

The commissioners shall also agree upon contracts between the authority and the counties regarding cost-sharing and the placement of prisoners.
[PL 2003, c. 228, §1 (NEW).]

4. Establishment. The Lincoln and Sagadahoc Multicounty Jail Authority is established as a public body corporate and politic and a public instrumentality of the counties, and the exercise by the authority of the powers conferred by this chapter must be deemed and held to be the performance of essential governmental functions.
[PL 2005, c. 47, §1 (NEW); PL 2005, c. 47, §3 (AFF).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW). PL 2005, c. 47, §1 (AMD). PL 2005, c. 47, §3 (AFF).

§1852. Transfer of property and assets

The directors shall determine what property or properties, if any, owned by Lincoln County and Sagadahoc County may be necessary to perform the functions of the jail authority and may request in writing that the commissioners convey title to the property to the jail authority, and the commissioners may make the conveyance. The jail authority shall pay fair compensation for the property or properties. Any request by the directors must be in writing within 2 years of the date of the certificate of organization. The authority shall provide a right of first refusal to the county in which the property is located should the property no longer be needed by the authority. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1853. Directors

1. Authorization. All of the affairs of the jail authority are managed by a board of directors that consists of not less than 12 directors. The initial board consists of 6 public members, one from each of the commissioners' districts; 4 county commissioners, 2 from each county and 2 sheriffs, one from each county. The exact number of directors must be determined by the operating and governance agreement. Each director is entitled to one vote. The jail authority may alter the number of its directors by amending the operating and governance agreement. A quorum of the directors may conduct the affairs of the jail authority even if there is a vacancy on the board of directors. A quorum is a simple majority of eligible and appointed directors, as long as each county is represented. A simple majority of directors voting, either in person or by written consent, may conduct the affairs of the jail authority.
[PL 2003, c. 228, §1 (NEW).]

2. Term. The duration of terms is determined by the operating and governance agreement. Directors shall serve until their successors are appointed and qualified. Any director may be appointed to successive terms without limit.
[PL 2003, c. 228, §1 (NEW).]

3. Vacancy. Any vacancy on the board of directors must be filled within 30 days after the vacancy occurs by appointment of the commissioners of the county that the director is to represent. An appointee to a vacancy serves until the expiration of the term of the director for whose position the appointment was made, and may be reappointed.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1854. Appointment of director; organizational meeting

1. Appointment of directors. Directors are appointed by the commissioners of the county they represent, except that any host county director must be appointed by all the commissioners of the counties in the jail authority. Alternate directors may be appointed by the commissioners to act in the absence of a director. The operating and governance agreement defines the specific process for appointing directors. To the extent possible, the board of directors shall include a mix of individuals with sufficient managerial, technical, financial or corrections experience to execute their duties efficiently and effectively. Appointments must be by vote of the commissioners, attested to by the county clerk, and presented to the clerk of the jail authority, once selected. The commissioners, by majority vote, may remove their appointed directors during their term for cause after notice and hearing.
[PL 2003, c. 228, §1 (NEW).]

2. First meeting. Upon receipt of the names of all the directors, the commissioners shall set a time, place and date for the first meeting of the directors. Notice of the meeting must be given to the directors by certified or registered mail, return receipt requested, and mailed at least 10 days prior to the date set for the meeting.
[PL 2003, c. 228, §1 (NEW).]

3. Elect officers. The directors shall elect from their own members a chair, vice-chair, treasurer and clerk. They shall choose, employ and fix the stipend of any other necessary officers and agents who serve at the directors' pleasure. They shall adopt a corporate seal. Prior to the election of the officers, each director shall be sworn to the faithful performance of the director's duties by the respective county clerk.
[PL 2003, c. 228, §1 (NEW).]

4. Bylaws. The directors may from time to time adopt, establish and amend bylaws consistent with this subchapter and the laws of the State that are necessary or reasonable for the proper

management of the affairs of the jail authority and perform any other acts within the powers delegated to them by law.
[PL 2003, c. 228, §1 (NEW).]

5. Annual meeting. After the meeting of the board of directors, the directors shall meet annually at a time determined by their bylaws for the purpose of electing a chair, vice-chair, treasurer and clerk to serve until the next annual election and until their successors are appointed and qualified. To the extent possible, the treasurer shall be chosen based on financial skills. The treasurer shall furnish bond in such sum and with such sureties as the directors shall approve, but not less than 50% of the anticipated annual revenues of the jail authority, the cost to be paid by the authority, unless the treasurer has no official role in the receipt and disbursement of money. The directors shall make and publish an annual report, including a report of the treasurer.
[PL 2003, c. 228, §1 (NEW).]

6. Employed by jail authority. A member of the board of directors of the jail authority may not be employed for compensation as an employee or in any other capacity by the jail authority.
[PL 2003, c. 228, §1 (NEW).]

7. Committee. The board of directors may establish an advisory committee pursuant to the operating and governance agreement under section 1851, subsection 3 and grant authority as it determines necessary. The board of directors may establish any and all committees as it determines necessary.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1855. Assumption of responsibilities

Any jail that is constructed pursuant to this chapter becomes the responsibility of the jail authority when its board of directors declares the multicounty jail operational. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1856. Agreement to provide limited services

Before the board of directors declares a multicounty jail operational, the jail authority may contract with either Lincoln County or Sagadahoc County to provide for services related to the counties' obligations under chapter 13. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1857. Withdrawal of counties

Lincoln County or Sagadahoc County may withdraw from the jail authority at any time prior to the commitment by the jail authority, or either county on behalf of the jail authority, to issue any instrument of indebtedness, including, but not limited to, bonds and notes. The date upon which the jail authority or either county is committed to issue the debt is established by a majority vote of the board of directors at least 90 days in advance of that date. At the time of withdrawal, the withdrawing county remains liable for its proportionate share of jail authority debts and withdrawal expenses incurred prior to the date of withdrawal and shall make provisions satisfactory to the board of directors and the commissioners to pay its share of the debt outstanding at the time of withdrawal. [PL 2003, c. 228, §1 (NEW).]

If a county withdraws from the jail authority or if the jail authority is dissolved, all of the responsibilities granted to the jail administrator are assumed by the sheriffs of the respective counties. [PL 2003, c. 228, §1 (NEW).]

After issuance of instruments of indebtedness with a maturity of one year or more, neither Lincoln County nor Sagadahoc County may withdraw from the jail authority while the indebtedness remains outstanding without the approval of 2/3 of the board of directors and a majority vote of the commissioners from each county. A withdrawing county shall make provisions satisfactory to 2/3 of the board of directors and a majority of the commissioners from each county to pay its share of debt outstanding at the time of withdrawal. Those provisions must include the pledge of the full faith and credit of the withdrawing county after consent of each county, if full faith and credit has not already been pledged under section 1954 or 1955. Withdrawal must be permissible in existing debt instruments. [PL 2003, c. 228, §1 (NEW).]

In considering the request of a county to withdraw, the board of directors and the commissioners shall consider the effect of the proposed withdrawal on the ability of the jail authority to continue operating the multicounty jail in a manner and at a cost to the remaining county that is reasonable. [PL 2003, c. 228, §1 (NEW).]

If the withdrawal causes the costs of the other county to increase as a condition of withdrawal the withdrawing county may be required by the board of directors and the commissioners either to secure an alternate and equivalent source of prisoners for the reasonable life of the jail facility or to execute an agreement to make payments to the jail authority following withdrawal that maintains the costs of the other county to remain constant when adjusted annually for the effect of all other factors on the costs until an alternate and equivalent source of prisoners is secured or results from the nonwithdrawing county's population. [PL 2003, c. 228, §1 (NEW).]

Subject to any required approval by the board of directors and the commissioners of each county, withdrawal by a county may be accomplished by a vote of the commissioners. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1858. Dissolution

1. Method. In the event both counties vote to withdraw pursuant to section 1857, the board of directors shall vote to dissolve the jail authority. The board of directors may, at any time by 2/3 vote, recommend to the counties that the jail authority be dissolved. If such a recommendation is made, the commissioners in each county shall vote on the question of dissolving the jail authority. If the commissioners in each of the counties vote to dissolve the jail authority, the jail authority must be dissolved by the board of directors at a time fixed by the board of directors.
[PL 2003, c. 228, §1 (NEW).]

2. Assets and liabilities. Upon dissolution, the directors shall conclude the affairs of the jail authority and shall liquidate the jail authority's assets and liabilities by:

A. Paying all expenses and paying or securing the payment of all debts of the jail authority in a manner permissible by the debt instruments; and [PL 2003, c. 228, §1 (NEW).]

B. Distributing all assets and all liabilities in a manner permissible by the debt instruments proportionately between the counties in accordance with any formula contained in section 1954 for guarantees and assessments. [PL 2003, c. 228, §1 (NEW).]

[PL 2003, c. 228, §1 (NEW).]

3. Filing of articles of dissolution. A copy of the articles of dissolution must be filed with the Secretary of State by the board of directors.

[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

SUBCHAPTER 3

POWERS

§1901. Powers

The power and authority of the jail authority formed under this chapter and the administration and the general supervision of all affairs of the authority are vested in the directors. The jail authority has the power, within the counties, to provide for the planning, construction, equipping, operation and maintenance of a common facility for corrections; to generate revenues from those activities and incur expenses from those activities, including reimbursement to Lincoln County and Sagadahoc County for organizational costs, and make contracts with persons, firms, corporations, partnerships, limited partnerships and other entities, whether private, public or municipal, as may be necessary or proper; and, in general, to do any or all other things necessary or incidental for the exercise of its powers or to the accomplishment of the purposes of the jail authority. [PL 2003, c. 228, §1 (NEW).]

When the board of directors declares the jail facility operational any powers and duties necessary to the operation of the Lincoln and Sagadahoc Multicounty Jail facility under this chapter are assumed by the administrator of the multicounty jail facility. [PL 2003, c. 228, §1 (NEW).]

The power to make contracts includes, but is not limited to: [PL 2003, c. 228, §1 (NEW).]

1. Experts. Contracting with architects, engineers, financial and legal consultants and other experts for services;
[PL 2003, c. 228, §1 (NEW).]

2. Operation. Contracting with persons, firms, corporations, limited partnerships, partnerships, associations, authorities and agencies for the operation of the multicounty jail and for services relating to the operation of the multicounty jail;
[PL 2003, c. 228, §1 (NEW).]

3. Corrections. Contracting for corrections with Lincoln County, Sagadahoc County and other governmental agencies, including other counties;
[PL 2003, c. 228, §1 (NEW).]

4. Government. Contracting with State Government, the Federal Government or any subdivision or agency of the State or the United States for services;
[PL 2003, c. 228, §1 (NEW).]

5. County employee services. Contracting with Lincoln County or Sagadahoc County for the services of any officers or employees of either county;
[PL 2003, c. 228, §1 (NEW).]

6. Counties. Contracting with Lincoln County and Sagadahoc County to reimburse organizational costs;
[PL 2003, c. 228, §1 (NEW).]

7. Real and personal property. Purchasing, selling, leasing, acquiring, conveying, mortgaging, improving and using real and personal property in connection with the purposes of the jail authority;
[PL 2003, c. 228, §1 (NEW).]

8. Staff; employment. Employing and establishing salaries and qualifications for such professional, clerical and administrative staff personnel as may be necessary or convenient to the operation of the jail authority; and
[PL 2003, c. 228, §1 (NEW).]

9. Use of bidding processes. Making contracts, issuing bonds, notes or other debt instruments under subchapter 4 and dealing generally with 3rd parties, including the power to use a negotiated or competitive bidding process or any other process that may be advantageous to the jail authority. The determination of the process to be used is made by and at the discretion of the directors.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1902. Real and personal property; right of eminent domain

The jail authority formed under this chapter may acquire and hold real and personal property that the jail authority considers necessary for its purposes and is granted the right of eminent domain. The jail authority may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public uses any land, real estate, easements or interest in land, real estate or easements necessary for construction and operating the multicounty jail. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1903. Procedure in exercise of right of eminent domain

The right of eminent domain granted in section 1902 may only be exercised after complying with the following procedures. [PL 2003, c. 228, §1 (NEW).]

1. Notice to owner. The jail authority shall provide notice to the owner of property subject to seizure as follows.

A. The owner or owners of record shall be:

(1) Notified that the directors are exercising the right of eminent domain;

(2) Provided with a description and scale map of the land or easement to be taken;

(3) Presented with the final amount offered for the land or easement to be taken, based on the fair market value as estimated by the jail authority; and

(4) Notified of the time and place of the hearing under subsection 4. [PL 2003, c. 228, §1 (NEW).]

B. Notice may be made:

(1) By personal service in hand by an officer duly qualified to serve civil process in this State; or

(2) By certified mail, return receipt requested, to the last known address of the owner or owners. [PL 2003, c. 228, §1 (NEW).]

C. If the owner or owners are not known or if the owner or owners can not be notified by personal service or certified mail, notice may be given by publication in the same manner under subsection 4. [PL 2003, c. 228, §1 (NEW).]
[PL 2003, c. 228, §1 (NEW).]

2. Notice to tenant. Notice under subsection 1 must be given to any tenants in the same manner as for the owner of the property.
[PL 2003, c. 228, §1 (NEW).]

3. Notice to the affected municipality. Notice under subsection 1 must be given to the municipality in which the property to be acquired is located in the same manner as for the owner of the property and must be addressed to the municipal officers.
[PL 2003, c. 228, §1 (NEW).]

4. Hearing. The directors shall hold a public hearing on the advisability of the proposed exercise of the right of eminent domain. Notice of the hearing must be made by publication in a newspaper of general circulation in the area of the taking and must be given once a week for 2 successive weeks, the last publication to be at least 2 weeks prior to the time appointed in the hearing. The hearing notice must include:

A. The time and place of the hearing; [PL 2003, c. 228, §1 (NEW).]

B. A description of the land or easement proposed to be taken; and [PL 2003, c. 228, §1 (NEW).]

C. The name of the owners, if known. [PL 2003, c. 228, §1 (NEW).]
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1904. Condemnation proceedings

The jail authority formed under this chapter, in exercising the right of eminent domain conferred upon it by section 1902 shall file in the office of the commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in the county plans of the location of all lands, real estate, easements or interest in lands, real estate or easements, with an appropriate description and the names of the owners, if known. When for any reason the jail authority fails to acquire property that the jail authority is authorized to take and that is described in that location, or if the description of the location so recorded is defective and uncertain, the authority may, at any time, correct and perfect the description of the location and file a new description. In that case, the jail authority is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the jail authority is not liable for any acts that would have been justified if the original taking had been lawful. Entry may not be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, at which time possession may be had of all the lands, real estate, easements or interests in lands, real estate or easements and other property and rights to be taken, but title may not vest in the jail authority until payment for the property. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1905. Appeal

If a person sustaining damages by the taking by the jail authority under section 1903 does not agree with the jail authority upon the sum to be paid, either party, upon petition to the superior court of the county in which the property is located, may have the damages assessed by the superior court. The procedure and all subsequent proceedings and right of appeal must be under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways by the commissioners, except that title to the lands, real estate, easements or interests in lands, real estate or easements and other property and rights to be taken may not vest in the jail authority until payment to the owner of the amount awarded for the taking or, if the payment is refused upon tender, until tender is made to the owner. The amount awarded must be escrowed at interest for the benefit of the owner, pending final determination of the amount to which the owner is entitled. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1906. Procedures

The directors may adopt procedures to regulate the corrections activities within the jail authority consistent with the provisions of the operating and governance agreement. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1907. Setting fees and other charges

The directors may establish and adjust a structure for fees, including penalty charges, for correction services on behalf of or under contract with, the jail authority. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1908. Annual audit

Each year an audit must be made of the accounts of the jail authority, and for this purpose authorized agents of a certified public accounting firm appointed by the directors have access to all necessary papers, books and records. Upon the completion of each audit, a report must be made to the chair of the jail authority board of directors and a copy must be sent to the commissioners of each county. The audit must be completed within 60 days of the end of the authority's fiscal year. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1909. Surplus revenues

If, at the end of any fiscal year, the jail authority has realized a surplus from operations for the fiscal year after payment of or provision for all current expenses, current maintenance, repairs and replacements, current debt service on all outstanding bonds and notes of the jail authority, all reserves for debt service, repairs and replacements, costs or current expenses as may be required by a trust agreement or resolution securing bonds or notes or as may otherwise be maintained by the jail authority, and any other amounts that the jail authority may be obligated by law or contract to pay or provide for, the jail authority may: [PL 2003, c. 228, §1 (NEW).]

1. Reduction in charges. Apply the surplus in the following fiscal year to a reduction in the rates, fees, rents or other charges established by the jail authority for services provided;
[PL 2003, c. 228, §1 (NEW).]

2. Reduction of capital debt. Apply the surplus to the reduction of its outstanding capital debt, or to a reserve account for that purpose if the financing documents do not allow debt reduction; or
[PL 2003, c. 228, §1 (NEW).]

3. Refunds. Make a proportional refund to the counties.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1910. Liability

The liability of the jail authority is governed by Title 14, chapter 741. A member of the jail authority, a member of a board of the jail authority and an employee of the jail authority are not subject

to any personal liability for having acted in the service of their duty within the course and scope of membership or employment to carry out a power or duty under this chapter. [PL 2005, c. 47, §2 (NEW); PL 2005, c. 47, §3 (AFF).]

SECTION HISTORY

PL 2005, c. 47, §2 (NEW). PL 2005, c. 47, §3 (AFF).

SUBCHAPTER 4

BONDS AND NOTES

§1951. Jail authority bonds and notes

1. Authorization of bonds. Subject to the limitations in this subchapter, the jail authority may provide by resolution of its board of directors and commissioners and with consent of the counties for the borrowing of money and the issuance from time to time of bonds and notes for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness; [PL 2003, c. 228, §1 (NEW).]

B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the jail authority or any county in the jail authority. The jail authority may reimburse either county in the jail authority for any such expenses incurred or paid by that county; [PL 2003, c. 228, §1 (NEW).]

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, constructing, maintaining and operating correctional facilities; and making renewals, additions, extensions and improvements to the property or facilities; and covering interest payments during the period of construction and for such period as the directors and commissioners may determine; [PL 2003, c. 228, §1 (NEW).]

D. Providing such reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds or notes; [PL 2003, c. 228, §1 (NEW).]

E. Financing all or part of a correctional facility for a user. The term "user," as used in this section, means one or more persons or entities, other than a jail authority, acting as lessee, purchaser, mortgagor, borrower or contracting party; and [PL 2003, c. 228, §1 (NEW).]

F. Any combination of these purposes. [PL 2003, c. 228, §1 (NEW).]

Bonds may be issued by the jail authority under this chapter as general obligations of the jail authority or as special obligations payable solely from particular funds. The principal, premium and interest on all bonds must be payable solely from the funds provided for that purpose from revenues. All bonds issued by the jail authority under this chapter are legal obligations of the jail authority and the jail authority is declared to be a quasi-municipal corporation within the meaning of section 5701. Bonds may be issued under this chapter without obtaining the consent of any commission, board, bureau or agency of the State. Bonds issued by the authority under this section are a municipal security as defined by section 5903 and are eligible for purchase by the Maine Municipal Bond Bank. Except as provided in this subchapter, bonds issued under this chapter by the jail authority do not constitute a debt or liability of the State or of either county in the jail authority or a pledge of the faith and credit of the State or either county, and a statement to that effect must be recited on the face of the bonds.
[PL 2003, c. 228, §1 (NEW).]

2. Notes. The jail authority may also provide by resolution of its board of directors for the issuance from time to time of:

A. Notes in anticipation of bonds authorized under this chapter; [PL 2003, c. 228, §1 (NEW).]

B. Notes in anticipation of the revenues to be collected or received in any year; or [PL 2003, c. 228, §1 (NEW).]

C. Notes in anticipation of the receipt of federal or state grants or other aid. The issuance of these notes is governed by the applicable provisions of this chapter relating to the issuance of bonds, as long as notes in anticipation of revenue mature no later than one year from those notes' respective dates of issuance. Notes issued in anticipation of federal or state grants or other aid and renewals of grants or aid must mature no later than the expected date, as determined by the board of directors, of receipt of those grants or aid. The board of directors may adjust the maturity date of notes issued in anticipation of federal or state grants or other aid to reflect changes in the expected date of receipt. Notes in anticipation of revenue issued to mature less than one year from dates of issuance of the notes may be renewed from time to time by the issuance of other notes, except that the period from the date of an original note to the maturity of any note issued to renew or pay the original note or the interest on the original note may not exceed one year. [PL 2003, c. 228, §1 (NEW).]

The jail authority may enter into agreements with the State Government or Federal Government, or any agency of either, or any county, corporation, commission or board authorized to grant or loan money or to otherwise assist in the financing of projects of the type that the jail authority is authorized to carry out. The jail authority may also accept grants and borrow money from the State Government or the Federal Government or any agency of either, or any county, corporation, commission or board authorized to grant or loan money as may be necessary or desirable to accomplish the purposes of the jail authority.
[PL 2003, c. 228, §1 (NEW).]

3. Maturity; interest; form; temporary bonds. The bonds issued under this chapter must be dated, must mature at such time or times not exceeding 40 years from their date or dates of issuance and must bear interest at such rate or rates as may be determined by the board of directors or determined pursuant to a formula approved by the board of directors or by a 3rd party rate-setting agent selected by the board of directors. The bonds may be made redeemable before maturity, at the option of the jail authority, at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the bonds. The board of directors shall determine the form of the bonds including any interest coupons to be attached, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any financial institution having trust powers inside or outside the State. Bonds must be executed in the name of the jail authority by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the jail authority designated in the resolution. If an officer whose signature or facsimile signature appears on any bonds or coupons ceases to hold that office before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes, as if the officer had remained in office until the delivery.

Notwithstanding any other provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds are deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of directors may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of directors may sell the bonds in the manner, either at public or private sale, and for such price as they may determine to be for the best interests of the jail authority. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in such manner and under such restrictions as the board of directors may provide.

The resolution providing for the issuance of bonds, and any trust agreement securing the bonds, may contain such limitations upon the issuance of additional bonds as the board of directors may determine proper, and these additional bonds must be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of directors may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of directors may provide for the replacement of any bond that is mutilated, destroyed or lost.
[PL 2003, c. 228, §1 (NEW).]

4. Pledges; covenants; trust agreement. In the discretion of the board of directors, each or any issue of bonds may be secured by a trust agreement by and between the jail authority and a corporate trustee, which may be any financial institution having trust powers inside or outside the State.

The resolution of the directors authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the jail authority and any accounts and contracts or other rights to receive the revenues or money, whether existing or coming into existence and whether held or acquired by the jail authority and the proceeds of the bonds, and may convey or mortgage the multicounty jail or any other properties of the jail authority. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders, including, but not limited to, covenants setting forth the duties of the jail authority and the board of directors in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of the multicounty jail or any of the authority's other properties; the fixing and revising of rates, tolls, assessments, rents and transportation charges and other charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; the defining of defaults and providing for remedies in the event of defaults, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set out the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. The resolution or trust agreement may contain such other provisions as the board of directors may determine reasonable and proper for the security of the bondholders, including means by which the resolution or trust agreement may be amended.

All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any such resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and received by the jail authority are immediately subject to the lien of the pledge without any physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the jail authority irrespective of whether those parties have notice of the lien of the pledge.

The resolution authorizing the issuance of bonds under this chapter, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues and assessments, after providing for the payment of the cost of repair, maintenance and operation and reserves for the cost of repair, maintenance and operation as may be provided in the resolution or trust agreement, must be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the bonds become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money in or to the credit of the fund is subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement

securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.
[PL 2003, c. 228, §1 (NEW).]

5. Trust funds. All money set aside for payment of the bonds, or other purposes pursuant to the provisions of any trust agreement securing the bonds, is deemed to be a trust fund to be held and applied as provided by the trust agreement; except that investment or deposit of those funds is subject to the provisions applicable to municipal funds under chapter 223, subchapter 3-A. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer of a bank or trust company or other financial institution or fiscal agent to which money is paid shall act as trustee of the money and shall hold and apply the money for the purposes pursuant to this subsection, subject to any regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.
[PL 2003, c. 228, §1 (NEW).]

6. Remedies. Any holder of bonds issued under this chapter or of any of the coupons attached to those bonds, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the jail authority, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution or trust agreement. A holder of bonds or a trustee may enforce and compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the jail authority or by any officer of the jail authority, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the jail authority, or if applicable, the making of any assessments against the counties under section 1952.
[PL 2003, c. 228, §1 (NEW).]

7. Refunding bonds. The jail authority formed under this chapter by resolution of its board of directors without consent of either county may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration of maturity or redemption of those bonds. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of those bonds, the expenses of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by the trust agreement or resolution securing bonds. The issuance of refunding bonds, the maturities and other details of the issuance of refunding bonds, the security for the issuance of refunding bonds, the rights of the holders of the issuance of refunding bonds and the rights, duties and obligations of the jail authority in respect of the same is governed by the applicable provisions of this chapter relating to the issuance of bonds.
[PL 2003, c. 228, §1 (NEW).]

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this chapter, and their transfer and the income from bonds, notes or other evidences of indebtedness, including any profit made on the sale of bonds, notes or other evidences of indebtedness, are at all times free from taxation inside the State.
[PL 2003, c. 228, §1 (NEW).]

9. Bonds declared legal investments. Bonds and notes issued by the jail authority under this chapter are securities in which: all public officers and public bodies of the State and its political subdivisions; all insurance companies and associations and other persons carrying on an insurance business; trust companies, banks, bankers, banking associations, savings banks and savings

associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries of pension, profit-sharing, retirement funds; other persons carrying on a banking business; and all other persons who are now, or may 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 bonds and notes are made securities that may properly and legally be deposited with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may be authorized by law.
[PL 2003, c. 228, §1 (NEW).]

10. Certain bond issues; notice; special meeting; vote. In the event that the directors vote to authorize bonds or notes for any of the corporate purposes of the jail authority, excluding notes payable within one year or notes in anticipation of the revenues to be collected or received in any year or notes in anticipation of bonds that have already been authorized in accordance with this chapter or notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which, singly or in the aggregate included in any one financing, is 10% or less of the operating budget, the directors do not need consent of the counties, but shall provide notice to the general public:

A. Of the proposed bond or note issue and the purposes for which the debt is being incurred; and [PL 2003, c. 228, §1 (NEW).]

B. Of a special jail authority meeting for the purpose of permitting the collection of testimony from the public concerning the amount of the debt so authorized. [PL 2003, c. 228, §1 (NEW).]

Notice of the proposed bond or note issue, the purposes for which the debt is being issued and the call of the special meeting must be published at least once in a newspaper having general circulation in the 2 counties.
[PL 2003, c. 228, §1 (NEW).]

11. Negotiated or competitive bidding process. Any notes, bonds or other instruments of indebtedness may be the subject of a negotiated or competitive bidding process or any other process that may be advantageous to the jail authority. Determination of the process to be used must be made by and at the discretion of the directors.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1952. Charges

All persons, firms and corporations, whether public or private, and each county shall pay to the treasurer of the jail authority formed under this chapter the rates, tolls, assessments, rents, transportation charges and other charges established by the directors for services provided by the jail authority. In this subchapter, the words "other charges" include, but are not limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes. The jail authority may submit periodic bills directly to individual users or to the counties as determined by the directors. [PL 2003, c. 688, Pt. C, §17 (AMD).]

The jail authority may establish schedules of charges by any method determined by the directors. [PL 2003, c. 228, §1 (NEW).]

The rates, tolls, assessments, rents, transportation charges and other charges must be so established as to provide revenue at least sufficient, together with any other money available, to: [PL 2003, c. 228, §1 (NEW).]

1. Current operating expenses. Pay the current expenses of operating and maintaining the multicounty jail facility;

[PL 2003, c. 228, §1 (NEW).]

2. Unanticipated operating expenses. Create and maintain a reserve not to exceed 3.5% of the operating budget for unanticipated operating expenses;
[PL 2003, c. 228, §1 (NEW).]

3. Payment of interest and principal. Pay the principal, premium and interest on all bonds and notes issued by the jail authority under this chapter when due and payable;
[PL 2003, c. 228, §1 (NEW).]

4. Payments into reserve funds. Create and maintain such reserves as may be required by any trust agreement or resolution securing bonds and notes;
[PL 2003, c. 228, §1 (NEW).]

5. Repairs, replacements and renewals. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the multicounty jail facilities; and
[PL 2003, c. 228, §1 (NEW).]

6. Payment of obligations. Pay or provide for any and all amounts that the jail authority may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes and including payment of organizational costs to Lincoln County and Sagadahoc County.
[PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW). PL 2003, c. 688, §C17 (AMD).

§1953. Collection of unpaid charges

The treasurer of the jail authority may collect the rates, tolls, assessments, rents, transportation charges and other charges established by the jail authority and those charges are committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the jail authority in a civil action for any rate, toll, rent, assessment, transportation charge or other charges remaining unpaid in any court of competent jurisdiction. In addition, the treasurer may order the termination of service for nonpayment of any amount owed to the jail authority. The treasurer may also collect rates, tolls, assessments, rents, transportation charges or other charges remaining unpaid pursuant to Title 36, section 891, to the extent applicable and only against assets of the county. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

§1954. Guarantee by counties of jail authority bonds and notes

Subject to the consent of the counties, the board of directors and a majority of the commissioners of each county may provide by resolution for the issuance, at one time or from time to time, of guaranteed notes and bonds of the jail authority for any purpose for which the jail authority may issue debt. Bonds issued by the authority under this section are a municipal security as defined by section 5903 and are eligible for purchase by the Maine Municipal Bond Bank. Except as otherwise provided, notes and bonds issued by the jail authority in accordance with this section must be authorized, issued and sold in the same manner as and subject to the other provisions of this subchapter relating to notes and bonds. The principal, premiums, if any, and interest on notes and bonds issued under this section must be guaranteed by the counties of the jail authority and the full faith and credit of the counties must be pledged for the guarantee provided in this section. The share of liability of each county for the guaranteed notes and bonds must be established in accordance with the method established in the operating and governance agreement. [PL 2003, c. 228, §1 (NEW).]

If the issuance of guaranteed notes and bonds of the jail authority is authorized pursuant to this section, then a county is authorized to guarantee the payment of the principal of and premiums, if any, and interest on notes and bonds issued by the jail authority and to pledge the full faith and credit of the county to the payment of the principal of and premiums, if any, and interest on notes and bonds issued by the jail authority. Any amount that is payable pursuant to a guarantee authorized pursuant to this section is payable from sums annually apportioned by a county among the towns and other places within the territorial limits of the county and assessed upon the taxable property in the county and the sums so apportioned and assessed are payable from ad valorem taxes that may be levied without limit as to rate or amount upon all the property within the territorial limits of each town or place taxable by the town or place, except as otherwise provided by law. [PL 2003, c. 688, Pt. C, §18 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW). PL 2003, c. 688, §C18 (AMD).

§1955. Bonds issued by counties

For the purpose of assisting the jail authority in financing the multicounty jail authorized by this chapter, and notwithstanding any other provision of law, with consent of the counties, Lincoln County and Sagadahoc County may issue general obligation bonds backed by the full faith and credit of the counties. Proceeds of the bonds or any part of the bonds may be either loaned or contributed to the jail authority. The issuance of the bonds and the loaning or contributing of funds to the jail authority formed under this chapter constitute a valid purpose for which either county may raise or appropriate money. General obligation bonds issued by either county under this section are municipal securities as defined in section 5903, and are eligible for purchase by the Maine Municipal Bond Bank. A county issuing bonds under this section and the jail authority receiving the proceeds of the bonds may enter into such contracts and agreements as they may agree upon, both with each other and 3rd parties, establish trust or enterprise funds to provide for timely payment of the bonds, employ a trustee and do all things that may be necessary or convenient to the jail authority or the county to make use of the bonds as may be determined by the board of directors and the county commissioners of the county issuing bonds. [PL 2003, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 228, §1 (NEW).

PART 2

MUNICIPALITIES

SUBPART 1

GENERAL PROVISIONS

CHAPTER 101

GENERAL PROVISIONS

§2001. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Clerk or municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Cable television company. "Cable television company" means any person owning, controlling, operating, managing or leasing a cable television system within the State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Cable television system. "Cable television system" means any facility that, in whole or in part, receives directly or indirectly over the air, amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes those signals by wire or cable to subscribing members of the public who pay for that service.

A. This term does not include:

(1) Any facility that serves fewer than 50 subscribers; or

(2) Any facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Federal Government. "Federal Government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Funded debt. "Funded debt" means an obligation for the payment of which some fund is set aside.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. General obligation security. "General obligation security" means a note, bond or other certificate of indebtedness to the payment of which is pledged the full faith and credit of the issuing body.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Home rule authority. "Home rule authority" means the powers granted to municipalities under chapter 111; section 3001; and the Constitution of Maine, Article VIII, Part Second.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Municipality. "Municipality" means a city or town, except as provided in chapter 225.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §13 and Pt (AMD).]

9. Municipal legislative body. "Municipal legislative body" means:

A. The town meeting in a town; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The city council in a city; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. That part of a municipal government that exercises legislative powers under a law or charter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Municipal officers. "Municipal officers" means:

A. The selectmen or councillors of a town; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The mayor and aldermen or councillors of a city. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Municipal official. "Municipal official" means any elected or appointed member of a municipal government.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Municipal year. "Municipal year" means a municipality's fiscal year as determined by the municipal officers under section 5651.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §14 and Pt (AMD).]

13. Open areas. "Open areas" means any space or area the preservation or restriction of the use of which would:

A. Maintain or enhance the conservation of natural or scenic resources; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Protect natural streams or water supplies; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Promote conservation of swamps, wetlands, beaches or tidal marshes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open areas or open spaces; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Affect or enhance public recreation opportunities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Preserve historic sites; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Implement the plan of development adopted by the planning commission of any municipality; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Promote orderly urban or suburban development. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

14. Person. "Person" means an individual, corporation, partnership, firm, organization or other legal entity.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

14-A. Public sewer or public drain. "Public sewer" or "public drain" means any sewer or drain constructed or laid by a governmental entity for the use of the public and includes both gravity and pressure mains.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

14-B. Public drinking water supplier. "Public drinking water supplier" means a public water supplier as defined by the federal Safe Drinking Water Act that provides drinking water from a source water protection area.

[PL 1999, c. 761, §4 (NEW).]

15. Real estate. "Real estate" means land and structures attached to it.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

16. Resident. "Resident" and "residence" refer to an individual's place of domicile.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

17. Sewage. "Sewage" means the water-carried wastes created in and carried or to be carried away from any structure together with any surface or ground water or household and industrial waste that is present.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

18. Sewer system. "Sewer system" includes both sewers and sewage disposal systems and all property, rights, easements and franchises relating to those sewers and sewage disposal systems.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

19. Sewers. "Sewers" means and includes mains, pipes and laterals for the reception of sewage and carrying that sewage to an outfall or some part of a sewage disposal system, including pumping stations.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

20. Sinking fund. "Sinking fund" means a fund created for the purpose of paying a debt.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

20-A. Source water protection area. "Source water protection area" means an area that contributes recharge water to a surface water intake or public water supply well for a public drinking water supply. In order to qualify as a "source water protection area," the area must be identified and mapped by the Department of Health and Human Services, and that information must be given to the municipality in which the source water protection area is located.

[PL 1999, c. 761, §4 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

21. Voter. "Voter" means a person registered to vote.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A13,14,C8, C10 (AMD). PL 1999, c. 761, §4 (AMD). PL 2003, c. 689, §B6 (REV).

§2002. Municipality as body corporate

The residents of a municipality are a body corporate which may sue and be sued, appoint attorneys and adopt a seal. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2003. Nonstatutory municipal functions

In addition to those offices and departments required by general law, a municipality may provide under its home rule authority for the performance of any other municipal function. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2004. General powers of cities

When no specific provision in a city charter exists in reference to the exercise of a municipal power, the city has all of the powers granted to towns or municipalities under the general law. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2005. Civil action against firearm and ammunition manufacturers

A municipality may not commence a civil action against any firearm or ammunition manufacturer for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing or sale of firearms or ammunition to the public. This section does not prohibit a municipality from bringing an action against a firearm or ammunition manufacturer or dealer for breach of contract or warranty for firearms or ammunition purchased by a municipality. [PL 1999, c. 430, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 430, §1 (NEW).

§2006. Misuse of municipal seal

A person may not use or display an imitation, likeness, imprint, representation, facsimile or copy of a seal of a municipality except by written permission of the municipality from the municipal clerk. A municipality may file an action in Superior Court applying for an order to enjoin a person from using or displaying the municipal seal in violation of this section. A violation of this section is a Class E crime. [PL 2005, c. 293, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 293, §1 (NEW).

SUBPART 2

ORGANIZATION AND INTERLOCAL COOPERATION

CHAPTER 111

HOME RULE

§2101. Purpose

The purpose of this chapter is to implement the home rule powers granted to municipalities by the Constitution of Maine, Article VIII, Part Second. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2102. Charter revisions, adoptions, procedure

1. Municipal officers. The municipal officers may determine that the revision of the municipal charter be considered or that adoption of a new municipal charter be considered and, by order, provide for the establishment of a charter commission to carry out that purpose as provided in this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide for the establishment of a charter commission for the revision of the municipal charter or the preparation of a new municipal charter as provided in this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Petition procedure. The following procedure shall be used in the alternative method set out in subsection 2.

A. Any 5 voters of the municipality may file an affidavit with the municipal clerk stating:

(1) That the 5 voters will constitute the petitioners' committee;

(2) The names and addresses of the 5 voters;

(3) The address to which all notices to the committee are to be sent; and

(4) That the 5 voters will circulate the petition and file it in proper form.

The petitioners' committee may designate additional voters of the municipality, who are not members of the committee, to circulate the petition.

Promptly after the affidavit is filed, the clerk shall issue petition blanks to the committee. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The municipal clerk shall prepare the petition forms at the municipality's expense. The petition forms must be printed on paper of uniform size and may consist of as many individual sheets as are reasonably necessary.

(1) Petition forms must carry the following legend in bold lettering at the top of the face of each form.

"Municipality of ...."

In the instance of preparing a new charter, the lettering at the top of the form must read: "Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of preparing a New Municipal Charter."

In the instance of revising a charter, the lettering at the top of the form must read: "Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of revising the Municipal Charter."

Each signature to a petition must be in ink or other indelible instrument and must be followed by the residence of the voter with street and number, if any. A petition may not contain any party or political designation.

(2) The clerk shall note the date of each petition form issued. All petitions must be filed within 120 days of the date of issue or they are void.

(3) Each petition form must have printed on its back an affidavit to be executed by the circulator, stating:

(a) That the circulator personally circulated the form;

(b) The number of signatures on the form;

(c) That all the signatures were signed in the circulator's presence;

(d) That the circulator believes them to be genuine signatures of the persons whose names they purport to be;

(e) That each signer has signed no more than one petition; and

(f) That each signer had an opportunity to read the petition before signing. [PL 2019, c. 149, §1 (AMD).]

C. Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note the date of filing on the forms. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 149, §1 (AMD).]

4. Procedure after filing. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by mail and shall file a copy with the municipal officers.

A. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of the clerk's certificate.

Within 10 days after this notice of intention is filed, the committee may file a supplementary petition to correct the deficiencies in the original. This supplementary petition, in form and content, must comply with the requirements for an original petition under subsection 3. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 5 days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for an original petition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form and manner as a recount under section 2531-B and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions. [PL 2011, c. 255, §1 (AMD).]

D. Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2011, c. 255, §1 (AMD).]

5. Election procedure. Within 30 days after the adoption of an order under subsection 1 or the receipt of a certificate or final determination of sufficiency under subsection 4, the municipal officers shall by order submit the question for the establishment of a charter commission to the voters at the next regular or special municipal election held at least 90 days after this order.

A. The question to be submitted to the voters must be in substance as follows:

In the instance of establishing a new charter, the question must read: "Shall a Charter Commission be established for the purpose of establishing a New Municipal Charter?"

In the instance of revising a charter, the question must read: "Shall a Charter Commission be established for the purpose of revising the Municipal Charter?" [PL 2019, c. 149, §2 (AMD).]

[PL 2019, c. 149, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, Pt. A, §2 (NEW). PL 1987, c. 737, Pt. C, §106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD). PL 1993, c. 608, §4 (AMD). PL 2011, c. 255, §1 (AMD). PL 2019, c. 149, §§1, 2 (AMD).

§2103. Charter commission, membership, procedure

1. Membership. The charter commission shall consist of several voters in the municipality, elected under paragraph A, and 3 members appointed by the municipal officers under paragraph B.

A. Voter members must be elected by one of the following methods:

(1) Six voter members are elected in the same manner as the municipal officers, except that they must be elected at-large and without party designations;

(2) One voter member is elected from each voting district or ward in the same manner as municipal officers, except that the voter member must be elected without party designation; or

(3) Voter members are elected both at-large and by district or ward, as long as the number of voter members is the same as the number of municipal officers on the board or council of that municipality and the voter members are elected in the same manner as the municipal officers, except that they must be elected without party designation.

Election of voter members may be held either at the same municipal election as the referendum for the charter commission or at the next scheduled regular or special municipal or state election. The names of the candidates on the ballot must be arranged alphabetically by last name. If the elections are held at the same time, the names of the candidates must appear immediately below the question relating to the charter commission. [PL 2009, c. 52, §1 (AMD); PL 2009, c. 52, §2 (AFF).]

B. Appointive members need not be residents of the municipality, but only one may be a municipal officer. The municipal officers shall make the appointments in accordance with municipal custom or bylaws within 30 days after the election approving the establishment of the charter commission. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2009, c. 52, §1 (AMD); PL 2009, c. 52, §2 (AFF).]

2. Organization. Immediately after receiving notice of the appointment of the members by the municipal officers, the municipal clerk shall notify the appointed and elected members of the charter commission of the date, time and place of the charter commission's organizational meeting. The clerk shall set the date, time and place of the meeting and give at least 7 days' notice of the meeting.

The charter commission shall organize by electing from its members a chairman, vice-chairman and a secretary and shall file notice of these elections with the municipal clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the municipality, except that a vacancy among appointive members shall be promptly filled by the municipal officers. Members shall serve without compensation, but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Regulations, staff. The charter commission may adopt regulations governing the conduct of its meetings and proceedings and may employ any necessary legal, research, clerical or other employees and consultants within the limits of its budget.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Funding. A municipality shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to the commission and shall permit it to consult with and obtain advice and information from municipal officers, officials and employees during ordinary working hours. Within 20 days after the members of a charter commission are elected and appointed, the municipal officers shall credit $100 to the charter commission account. A municipality, from time to time, may appropriate additional funds to the charter commission account. These funds may be raised by taxation, borrowed or transferred from surplus.

A. In addition to funds made available by a municipality, the charter commission account may receive funds from any other source, public or private, except that no contribution of more than $5 may be accepted from any source other than the municipality, unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing filed with the clerk. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Prior to its termination, the charter commission shall file with the clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the municipality's surplus account. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Hearings, reports, time limits. The following requirements regarding hearings, reports and time limits apply to a charter commission.

A. Within 30 days after its organizational meeting, the charter commission shall hold a public meeting to receive information, views, comments and other material relating to its functions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The charter commission shall hold its public hearings within the municipality at the times and places set by the commission. At least 10 days before a hearing, the charter commission shall publish the date, time and place of the hearing in a notice in a newspaper having general circulation in the municipality. Hearings may be adjourned from time to time without further published notice. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Within 9 months after its election, the charter commission shall:

(1) Prepare a preliminary report including the text of the charter or charter revision which the commission intends to submit to the voters and any explanatory information the commission considers desirable;

(2) Have the report printed and circulated throughout the municipality; and

(3) Provide sufficient copies of the preliminary report to the municipal clerk to permit its distribution to each voter requesting a copy. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Within 12 months after its election, the charter commission shall submit its final report to the municipal officers. This report must include:

(1) The full text and an explanation of the proposed new charter or charter revision;

(2) Any comments that the commission considers desirable;

(3) An indication of the major differences between the current and proposed charters; and

(4) A written opinion by an attorney admitted to the bar of this State that the proposed charter or charter revision does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

Minority reports if filed may not exceed 1,000 words. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The municipal officers may extend the time limits for the preparation and submission of preliminary and final reports of the charter commission for up to 24 months after the election of the commission if the extension is necessary to:

(1) Properly complete the reports;

(2) Have them printed or circulated; or

(3) Obtain the written opinion of an attorney. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Election. When the final report is filed, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular or special municipal election held at least 35 days after the final report is filed.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Charter modification summaries. When a proposed charter revision is submitted to the voters in separate questions as charter modifications under section 2105, subsection 1, paragraph A, and the municipal officers, with the advice of an attorney, determine that it is not practical to print the proposed charter modification on the ballot and that a summary would not misrepresent the subject matter of the proposed modification, a summary of the modification may be substituted for the text of the proposed modification in the same manner as a summary is substituted for a proposed amendment under section 2104, subsection 6.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Termination. Except as provided in paragraph A, the charter commission shall continue in existence for 30 days after submitting its final report to the municipal officers for the purpose of winding up its affairs.

A. If judicial review is sought under section 2108, the charter commission shall continue in existence until that review and any appeals are finally completed for the purpose of intervening in those proceedings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 495, §1 (AMD). PL 2009, c. 52, §1 (AMD). PL 2009, c. 52, §2 (AFF).

§2104. Charter amendments; procedure

1. Municipal officers. The municipal officers may determine that amendments to the municipal charter should be considered and, by order, provide for notice and hearing on them in the same manner as provided in subsection 5, paragraph A. Within 7 days after the hearing, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election held at least 30 days after the order is passed; or they may order a special election to be held at least 30 days from the date of the order for the purpose of voting on the proposed amendments.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Alternative statements of a single amendment are prohibited. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Petition by voters. On the written petition of a number of voters equal to at least 20% of the number of votes cast in a municipality at the last gubernatorial election, but in no case less than 10, the municipal officers, by order, shall provide that proposed amendments to the municipal charter be placed on a ballot in accordance with paragraphs A and B.

A. Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Alternative statements of a single amendment are prohibited. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Petition procedure. The petition forms shall carry the following legend in bold lettering at the top of the face of each form.

"Municipality of ...."

"Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the municipal charter as set out below."

No more than one subject may be included in a petition.

In all other respects, the form, content and procedures governing amendment petitions shall be the same as provided for charter revision and adoption petitions under section 2102, including procedures relating to filing, sufficiency and amendments.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Amendment constituting revision. At the request of the petitioners' committee, the petition form shall also contain the following language:

"Each of the undersigned voters further requests that if the municipal officers determine that the amendment set out below would, if adopted, constitute a revision of the charter, then this petition shall be treated as a request for a charter commission."

Upon receipt of a petition containing this language, the municipal officers, if they determine with the advice of an attorney that the proposed amendment would constitute a revision of the charter, shall treat the petition as a request for a charter commission and follow the procedures applicable to such a request.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Action on petition. The following procedures shall be followed upon receipt of a petition certified to be sufficient.

A. Within 10 days after a petition is determined to be sufficient, the municipal officers, by order, shall provide for a public hearing on the proposed amendment. At least 7 days before the hearing, they shall publish a notice of the hearing in a newspaper having general circulation in the municipality. The notice must contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 7 days after the public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the bar of this State that the proposed amendment does not contain any provision prohibited by the general laws, the United States Constitution or the Constitution of Maine. In the case of a committee report, a copy shall also be filed with the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. On all petitions filed more than 120 days before the end of the current municipal year, the municipal officers shall order the proposed amendment to be submitted to the voters at the next regular or special municipal election held within that year after the final report is filed. If no such election will be held before the end of the current municipal year, the municipal officers shall order a special election to be held before the end of the current municipal year for the purpose of voting on the proposed amendment. Unrelated charter amendments shall be submitted to the voters as separate questions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Summary of amendment. When the municipal officers determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the subject matter of the proposed amendment, the municipal officers shall include in their order a summary of the proposed amendment, prepared subject to the requirements of section 2105, subsection 3, paragraph C, and instruction to the clerk to include the summary on the ballot instead of the text of the proposed amendment.

[PL 1991, c. 622, Pt. X, §10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 622, §X10 (AMD).

§2105. Submission to voters

The method of voting at municipal elections, when a question relating to a charter adoption, a charter revision, a charter modification or a charter amendment is involved, shall be in the manner prescribed for municipal elections under sections 2528 to 2532, even if the municipality has not accepted the provisions of section 2528. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Charter revision or adoption. Except as provided in paragraph A, in the case of a charter revision or a charter adoption, the question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the (charter revision) (new charter) recommended by the charter commission?"

A. If the charter commission, in its final report under section 2103, subsection 5, recommends that the present charter continue in force with only minor modifications, those modifications may be submitted to the voters in as many separate questions as the commission finds practicable. The determination to submit the charter revision in separate questions under this paragraph and the number and content of these questions must be made by a majority of the charter commission.

(1) If a charter commission decides to submit the charter revision in separate questions under this paragraph, each question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the charter modification recommended by the charter commission and reprinted (summarized) below?" [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Charter amendment. In the case of a charter amendment the question to be submitted to the voters shall be in substance as follows:

"Shall the municipality approve the charter amendment reprinted (summarized) below?"

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Voter information. Reports shall be made available and summaries prepared and made available as follows.

A. In the case of a charter revision or charter adoption, at least 2 weeks before the election, the municipal officers shall:

(1) Have the final report of the charter commission printed;

(2) Make copies of the report available to the voters in the clerk's office; and

(3) Post the report in the same manner that proposed ordinances are posted. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In the case of a charter amendment, at least 2 weeks before the election, the municipal officers shall:

(1) Have the proposed amendment and any summary of the amendment prepared under this section printed;

(2) Make copies available to the voters in the clerk's office; and

(3) Post the amendment and any summary of that amendment in the same manner that proposed ordinances are posted. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any summary must fairly describe the content of the proposed amendment and may not contain information designed to promote or oppose the amendment. [PL 1991, c. 622, Pt. X, §11 (AMD).]

[PL 1991, c. 622, Pt. X, §11 (AMD).]

4. Effective date. If a majority of the ballots cast on any question under subsection 1 or 2 favor acceptance, the new charter, charter revision, charter modification or charter amendment becomes effective as provided in this subsection, provided the total number of votes cast for and against the question equals or exceeds 30% of the total votes cast in the municipality at the last gubernatorial election.

A. Except as provided in subparagraph (1), new charters, charter revisions or charter modifications adopted by the voters take effect on the first day of the next succeeding municipal year.

(1) New charters, charter revisions or charter modifications take effect immediately for the purpose of conducting any elections required by the new provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Charter amendments adopted by the voters take effect on the date determined by the municipal officers, but not later than the first day of the next municipal year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 622, §X11 (AMD).

§2106. Recording

Within 3 days after the results of the election have been declared, the municipal clerk shall prepare and sign 3 identical certificates setting forth any charter that has been adopted or revised and any charter modification or amendment approved. The clerk shall send one certificate to each of the following: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Secretary of State. The office of the Secretary of State, to be recorded;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Law library. The Law and Legislative Reference Library; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Clerk's office. The office of the municipal clerk.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2107. Effect of private and special laws

Private and special laws applying to a municipality remain in effect until repealed or amended by a charter revision, adoption, modification or amendment under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2108. Judicial review

1. Petition. The Superior Court, upon petition of 10 voters of the municipality or on petition of the Attorney General, may enforce this chapter. The charter commission may intervene as a party in any such proceeding.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Declaratory judgment. A petition for declaratory relief under Title 14, chapter 707, may be brought on behalf of the public by the Attorney General or, by leave of the court, by 10 voters of the municipality. The charter commission shall be served with notice of the petition for declaratory judgment.

A. If 10 voters petition for declaratory relief, they shall serve the Attorney General and the charter commission with notice of the preliminary petition for leave. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The Attorney General or the charter commission may intervene as a party at any stage of the proceedings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The petitioners are liable for costs. However, the court has discretion to award costs and reasonable attorney fees to the petitioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Judicial review. Any 10 voters of the municipality, by petition, may obtain judicial review to determine the validity of the procedures under which a charter was adopted, revised, modified or amended. The petition must be brought within 30 days after the election at which the charter, revision, modification or amendment is approved. If no such petition is filed within this period, compliance with all the procedures required by this chapter and the validity of the manner in which the charter adoption, revision, modification or amendment was approved is conclusively presumed. No charter adoption, revision, modification or amendment may be found invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected the adoption, revision, modification or amendment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Resubmission upon judicial invalidation for procedural error. If the court finds that the procedures under which any charter was adopted, revised, modified or amended are invalid, the Superior Court, on its own motion or the motion of any party, may order the resubmission of the charter adoption, revision, modification or amendment to the voters. This order shall require only the minimum procedures on resubmission to the voters that are necessary to cure the material and substantial errors or omissions. The Superior Court may also recommend or order other curative procedures to provide for valid charter adoption, revision, modification or amendment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2109. Liberal construction

This chapter, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to accomplish its purposes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 113

CONSOLIDATION, SECESSION AND ANNEXATION

SUBCHAPTER 1

CONSOLIDATION

§2151. Authority to consolidate

Any 2 or more municipalities may consolidate by following the procedure of section 2152 or the alternative procedure of section 2153. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2152. Joint charter commission

1. Petition. The voters of a municipality may file a petition in the municipal office that must:

A. Be addressed to the municipal officers; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Be signed by a number of voters of the municipality equal to at least 10% of the total number of votes cast in that municipality in the last gubernatorial election, except:

(1) In municipalities with 10,000 or more votes cast in the last gubernatorial election, 1,000 signatures are required unless the municipal charter requires an amount greater than 1,000; and

(2) When a petition is subject to section 2155; [PL 2017, c. 398, §1 (AMD).]

C. Propose that the municipality be consolidated with another municipality, or other municipalities, named in the petition; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Request that 3 persons be elected by the voters of the municipality to serve as members of a joint charter commission for the purpose of drafting a consolidation agreement. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2017, c. 398, §1 (AMD).]

1-A. Referendum on forming joint charter commission. If a petition is filed pursuant to subsection 1, the municipal officers shall call and conduct a referendum to determine the willingness of the voters of the municipality to form a joint charter commission with the municipality or municipalities named in the petition. The referendum must be held at the next scheduled regular election that is held at least 90 days after the petition is filed. The question to be voted on at the referendum must be in substantially the following form: "Do you favor forming a joint charter commission to draft a consolidation agreement for the purpose of consolidating with ..... (municipality or municipalities named in the petition)?" The consolidation agreement is not final unless approved by the voters of each municipality.

[PL 2017, c. 398, §2 (NEW).]

2. Joint charter commission. If a petition is filed as required under subsection 1 and a majority of those casting ballots pursuant to subsection 1-A approve the referendum question in each municipality or if a majority of municipal officers vote to hold elections for a joint charter commission under section 2155, the 3 members of a joint charter commission must be elected at the next special or regular election in the manner provided for the election of municipal officers. The election of members

by 2 or more municipalities authorizes the commission to draft the consolidation agreement. If a municipality does not elect members, it may not participate in the consolidation.
[PL 2017, c. 398, §3 (AMD).]

3. Consolidation agreement. The joint charter commission shall draft an agreement between the consolidating municipalities which includes:

A. The names of the municipalities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The name under which it is proposed to consolidate, which must be distinguishable from the name of any other municipality in the State, other than the consolidating municipalities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The property, real and personal, belonging to each municipality, and its fair value; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The indebtedness, bonded and otherwise, of each municipality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The proposed name and location of the municipal office; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The proposed charter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The terms for apportioning tax rates to service the existing bonded indebtedness of the respective municipalities; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Any other necessary and proper facts and terms. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Submission of consolidation agreement. The consolidation agreement shall be submitted to the voters of each municipality at a municipal election after notice and hearing as provided in paragraphs A and B. The consolidation agreement may be amended, provided that the amended agreement meets the notice and hearing requirements of paragraphs A and B. Upon approval of a majority of those voting in each of 2 or more municipalities, the consolidation agreement becomes effective, according to its terms, in those municipalities.

A. The municipal officers of each municipality shall hold a public hearing on the consolidation agreement. The public hearing may be held on more than one day, provided that it adjourns permanently at least 10 days before the election. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The municipal officers shall notify the voters of each municipality of the consolidation agreement and of the time and place of the public hearing in the same manner that the voters of

each municipality are notified of ordinances to be enacted. This notice must be given at least 30 days before the election and at least 10 days before the hearing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 398, §§1-3 (AMD).

§2153. Alternative procedure

The municipal officers of 2 or more municipalities may act as a joint charter commission without a petition under section 2152, subsection 1. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2154. Effects of consolidation

All the rights, privileges and franchises of each of the municipalities and all property, real and personal, and all debts due on whatever amounts, belonging to and of the municipalities, are transferred to and vested in the consolidated municipality, provided that all bonded debt of each municipality remains in effect after consolidation as a debt of that portion of the consolidated municipality within the limits of the former municipality that incurred the debt. Ordinances of the former municipalities remain in effect in their respective territories until 2 years after the effective date of the consolidation when they become void. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2155. Limitation

If the voters of a municipality reject a consolidation agreement, that municipality may not be a party to any consolidation agreement for 6 years after the date of the rejection, except when a number of voters equal to at least 30% of the total number of votes cast in that municipality in the last gubernatorial election file a petition under section 2152, subsection 1 or when a majority of the municipal officers in each municipality proposed for consolidation in the rejected consolidation agreement vote to hold municipal elections to elect members of a joint charter commission in accordance with section 2152, subsection 2 to draft a consolidation agreement. [PL 2017, c. 398, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 398, §4 (AMD).

§2156. Certificate to Secretary of State

The municipal officers shall declare the results of any vote under this chapter and file a certificate of the result with the Secretary of State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt.

C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

SECESSION PROCESS

§2171. Legislative intent

The Legislature finds that the citizens of the State in accordance with the Constitution of Maine, Article I, Section 2, have an unalienable and indefeasible right to institute government and to alter, reform or totally change the same, when their safety and happiness require it. The Legislature further finds that the Legislature has the responsibility to ensure that the rights of all citizens are protected and that a decision to alter or otherwise change the boundaries of a municipal government should be made with caution and only after following the process set forth in this subchapter. [PL 1999, c. 381, §1 (AMD).]

SECTION HISTORY

PL 1995, c. 377, §2 (NEW). PL 1999, c. 381, §1 (AMD).

§2171-A. Secession of territory from a municipality

Residents of territory within a municipality must follow the procedures set forth in this subchapter before seeking authority from the Legislature to secede from the municipality. [PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW).

§2171-B. Initiation of procedure

The secession process may be initiated by submitting to the municipal officers a petition signed by more than 50% of the registered voters within the secession territory that requests a municipal public hearing for the purpose of discussing whether the specified territory should secede from the municipality. The petition must set forth the physical boundaries of the secession territory, the resident population, the nonresident population and a list of not more than 5 people who will serve as representatives of the secession territory. For purposes of this subchapter, "secession territory" means the area described in the petition for secession. [PL 1999, c. 381, §2 (NEW).]

The registrar of voters of the municipality shall verify the signatures on the petition within 30 days of the receipt of the petition. [PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW).

§2171-C. Initial hearing

Upon receipt of a petition with the required number of verified signatures, the municipal officers shall call and hold a public hearing. The purpose of the public hearing is to allow municipal residents, officers and residents in the secession territory to discuss secession. The public hearing must be conducted by a moderator elected in the manner provided for in section 2524, except that no other

official vote may be taken at the public hearing. The public hearing must be conducted in accordance with the following. [PL 1999, c. 381, §2 (NEW).]

1. Hearing advertised. The municipal officers shall publish notice of the public hearing in a newspaper of general circulation in the area. One notice must be published as close as possible to the 14th day before the hearing and a 2nd notice must be published as close as possible to the 7th day before the hearing.
[PL 1999, c. 381, §2 (NEW).]

2. Purpose of secession hearing. The public hearing must include a formal presentation by those initiating the petition, which must include a description of the problems that have led to the secession effort. Attendees shall discuss the problems, potential solutions other than secession and the potential impact of secession on the secession territory and the municipality. The persons initiating the petition shall submit a written report at the public hearing that describes the impact of the proposed secession on property taxes in the municipality as well as in the secession territory.
[PL 1999, c. 381, §2 (NEW).]

3. Nonresidents eligible to participate. Notwithstanding section 2524, subsection 3, paragraph A, nonresidents may participate in the public hearing on secession.
[PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW).

§2171-C-1. Legislative authorization to proceed

Within one year following the public hearing held pursuant to section 2171-C, a representative from the secession territory shall cause legislation to be submitted to the Legislature to obtain the authorization of the Legislature to proceed with the secession process. Unless authorization to proceed is received from the Legislature, the question of secession may not proceed to the advisory referendum held pursuant to section 2171-D. The authorization of the Legislature to proceed with the secession process does not affect the ultimate determination of the Legislature on the proposal for secession submitted pursuant to section 2171-E or 2171-G. [PL 2013, c. 384, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 384, §1 (NEW).

§2171-D. Advisory referendum

Unless a majority of the secession territory representatives withdraws support for secession by filing written notice of such withdrawal with the municipal officers, the municipality shall conduct an advisory referendum within the secession territory as long as the Legislature has authorized the secession process to proceed pursuant to section 2171-C-1. The referendum must be held at the next regularly scheduled election and must be conducted pursuant to sections 2528, 2529 and 2532, even if the town or plantation has not accepted the provisions of section 2528. The question at the referendum must be:

"Do you favor secession of the territory described below from the municipality of ?"

(description of secession territory) [PL 2013, c. 384, §2 (AMD).]

The municipal officers may hold a separate advisory referendum in the municipality outside the secession territory at the same time with the same question, provided that the vote totals are kept and reported separately. [PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW). PL 2013, c. 384, §2 (AMD).

§2171-E. Vote of municipal officers

Following the advisory referendum, the municipal officers shall take a recorded vote on whether to support the secession request. If a majority of the officers approves the request and more than 50% of the registered voters in the secession territory voting at the advisory referendum pursuant to section 2171-D favor secession, legislation requesting secession may be submitted to the Legislature with the information required in section 2172. [PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW).

§2171-F. Resolving conflicts; selecting mediator

If the vote of the municipal officers and the advisory referendum are in conflict, the municipal officers and the secession territory representatives shall meet to attempt to resolve issues related to the secession. If the municipal officers and secession territory representatives do not reach agreement on all issues within a reasonable amount of time, an independent 3rd-party mediator must be retained and the costs shared by the municipality and the secession representatives. The mediator must be knowledgeable in municipal management and municipal law as well as conflict resolution. [PL 1999, c. 381, §2 (NEW).]

If the municipal officers and secession territory representatives can not select a mutually agreed upon and qualified mediator within 30 days of reaching impasse on secession issues, the parties must petition the Court Alternative Dispute Resolution Service, created in Title 4, section 18-B, for mediation services. The Court Alternative Dispute Resolution Service shall: [PL 1999, c. 381, §2 (NEW).]

1. Mediator assignment. Assign a mediator who is knowledgeable in municipal management and municipal law;
[PL 1999, c. 381, §2 (NEW).]

2. Fee. Establish a fee for services in an amount not to exceed $175 for every 4 hours of mediation services provided;
[PL 1999, c. 381, §2 (NEW).]

3. Mediation schedule; notice. Establish the mediation schedule, ensure that proper notice is provided to all parties and ensure that the parties necessary for effective mediation are participating; and
[PL 1999, c. 381, §2 (NEW).]

4. Mediation report. Upon the completion of the mediation effort, file a written report with the joint standing committee of the Legislature having jurisdiction over state and local government matters. The report must provide the details of the mediation effort and any mediated agreement. In the event that the mediation effort does not result in the resolution of all issues, the mediation report must indicate to the extent possible what issues remain unresolved and why the parties failed to reach a mutually agreeable resolution of the dispute.
[PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW).

§2171-G. Submission of dispute to the Legislature

If the parties have not reached agreement on all issues within 6 months after beginning discussions, the matter may be submitted to the Legislature. The Legislature may consider the information submitted pursuant to section 2172 in making its decision. [PL 1999, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 381, §2 (NEW).

§2172. Information to be submitted with legislation proposing secession

A territory that seeks to have legislation submitted on its behalf proposing its secession from a municipality shall provide the Legislature with the following information, which the Legislature may use in making a determination on a proposal for secession: [PL 1997, c. 699, §3 (AMD).]

1. Report on attempts to resolve differences. A report on attempts by the secession territory to resolve concerns that have caused the desire to secede from the municipality. If a neutral 3rd party was involved in the attempt to resolve concerns through alternative dispute resolution methods such as mediation, facilitation or arbitration, the territory must also submit a report from the neutral 3rd party; [PL 1999, c. 381, §3 (AMD).]

2. Effective date. The date on which a proposed secession is effective;
[PL 1995, c. 377, §2 (NEW).]

3. Provision of educational services. Plans for the provision of educational services, including school transportation services for all students in the proposed secession territory;
[PL 1995, c. 377, §2 (NEW).]

4. Distribution of tangible assets and liabilities. Plans regarding the distribution of assets and liabilities;
[PL 1995, c. 377, §2 (NEW).]

5. Information about municipality. The following information concerning the municipality and the proposed secession territory:

A. Present population, past population change and projected population for the secession territory; [PL 1995, c. 377, §2 (NEW).]

B. Quantity of land within the secession territory proposed for incorporation; the natural terrain of the secession territory, including general topography, major watersheds, soil conditions; and such natural features as rivers and lakes; [PL 1995, c. 377, §2 (NEW).]

C. Present pattern of physical development in the secession territory, including residential, industrial, commercial, agricultural and institutional land uses; and the present transportation network and potential transportation issues, including proposed highway development; [PL 1995, c. 377, §2 (NEW).]

D. Land use controls and planning presently being utilized in the secession territory, including comprehensive plans for development in the secession territory; [PL 1995, c. 377, §2 (NEW).]

E. Present governmental services being provided to the secession territory, including water and sewer service, fire protection, police protection, street improvements and maintenance, administrative services and recreational facilities; [PL 1995, c. 377, §2 (NEW).]

F. Existing or potential problems of environmental pollution and the need for additional services to resolve these problems; [PL 1995, c. 377, §2 (NEW).]

G. Fiscal data of the secession territory, including the net tax capacity of the proposed secession territory and the impact on the municipality from which the territory proposes to secede; the present bonded indebtedness; and the local tax rates of the county, school district and municipality; [PL 1995, c. 377, §2 (NEW).]

H. Effect of the proposed incorporation on communities adjacent to the secession territory and on school districts within and adjacent to the secession territory; and [PL 1995, c. 377, §2 (NEW).]

I. Ability of municipal government to deliver services to the secession territory; and [PL 1995, c. 377, §2 (NEW).]

[PL 1995, c. 377, §2 (NEW).]

6. Community support. The extent to which the proposed secession territory and the affected municipality or municipalities have demonstrated support or opposition for a proposal for secession, including the use of petitions, votes or other methods of indicating support or opposition.
[PL 1995, c. 377, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 377, §2 (NEW). PL 1997, c. 699, §§2-4 (AMD). PL 1999, c. 381, §3 (AMD).

§2173. Local effort prior to seeking secession legislation

(REPEALED)

SECTION HISTORY

PL 1997, c. 699, §5 (NEW). PL 1999, c. 381, §4 (RP).

SUBCHAPTER 3

SECESSION BY MUNICIPALITY FROM COUNTY

§2174. Secession by a municipality from a county

This subchapter establishes a process by which a municipality may secede from one county and join another. The municipality must share a political subdivision border with both counties. [PL 2007, c. 401, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 401, §1 (NEW).

§2174-A. Legislative approval of a vote on secession

In order to secede, a municipality must receive approval from the Legislature for the municipality to hold a vote on the proposed secession. [PL 2013, c. 210, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 210, §1 (NEW).

§2175. Initiation of procedure

1. Petition. Upon approval of the Legislature and receipt of a petition that seeks to have a municipality secede from one county and join another county signed by 10% of the number of voters in the municipality who voted at the last gubernatorial election, the municipal officers shall call, advertise and hold a public hearing at least 14 days and no more than 60 days after certifying the petition. The municipal officers shall publish notice of the public hearing in a newspaper of general circulation in the area. One notice must be published as close as possible to the 14th day before the hearing and a 2nd notice must be published as close as possible to the 7th day before the hearing.

A. The purpose of the public hearing under this section is to allow municipal residents and officers to discuss secession. The public hearing must include a formal presentation by those initiating the petition that must include a description of the problems that have led to the secession effort. Attendees shall discuss the problems, potential solutions other than secession and the potential impact of secession on the municipality and the county from which the municipality is seceding. The persons initiating the petition shall submit a written report at the public hearing that describes the impact of the proposed secession on property taxes in the county from which the municipality is seceding as well as in the municipality. [PL 2007, c. 401, §1 (NEW).]

[PL 2013, c. 210, §2 (AMD).]

2. Question. When the municipal legislative body is the town meeting, no later than 90 days after the public hearing under this section, municipal officers shall prepare an article in the form below for inclusion in a town meeting warrant to be voted on by written ballot at a town meeting. In other municipalities, the vote must be by local referendum no later than 90 days after the public hearing under this section. The question to be voted on must be in substantially the following form:

"Be it resolved that the voters of X (municipality) seek approval of the Legislature for X (municipality) to secede from the County of X and join the County of Y. Following legislative approval, a countywide referendum is required before final secession is authorized. Do you support X (municipality) seeking the approval of the Legislature for X (municipality) to secede from the County of X?

Yes No"

[PL 2007, c. 401, §1 (NEW).]

3. Approval. If the voters approve the question under subsection 2 by a majority vote of those voting and present, then the rest of the secession process set forth in this subchapter applies.
[PL 2007, c. 401, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 401, §1 (NEW). PL 2013, c. 210, §2 (AMD).

§2176. Legislative approval of secession

(REPEALED)

SECTION HISTORY

PL 2007, c. 401, §1 (NEW). PL 2013, c. 210, §3 (RP).

§2177. County approval of secession

Upon approval by the voters to secede, both the county from which the municipality is seceding and the county that the municipality is joining under this subchapter shall hold a referendum vote during the next scheduled regular election. Both counties must agree by a majority vote in favor of secession. The question to be voted on must be in substantially the following form:

"Be it resolved that the voters of X (municipality) seek approval of the County of X and the County of Y to secede from the County of X and join the County of Y. Do you support X (municipality) seceding from the County of X and joining the County of Y and the municipality continuing to pay debt service owed to the County of X?

Yes No" [PL 2013, c. 210, §4 (AMD).]

SECTION HISTORY

PL 2007, c. 401, §1 (NEW). PL 2013, c. 210, §4 (AMD).

§2178. Cost of referenda

The municipality petitioning to secede shall bear the expense of the 2 countywide referenda under section 2177. [PL 2007, c. 401, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 401, §1 (NEW).

§2179. Debt service of county

The municipality seceding under this subchapter must continue to pay the municipality's share of the debt service to the county from which the municipality is seceding. The time period for which the

amount of debt service can be paid must be agreed upon between the municipality seceding and the county from which the municipality is seceding. Payment may not extend longer than the time in which the voters authorized the debt to be borne. [PL 2007, c. 401, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 401, §1 (NEW).

CHAPTER 114

INTERGOVERNMENTAL COOPERATION

§2181. Intergovernmental Advisory Commission

(REPEALED)

SECTION HISTORY

PL 2003, c. 696, §12 (NEW). PL 2005, c. 2, §D64 (AMD). PL 2005, c. 2, §§D72,74 (AFF). PL 2005, c. 12, §WW18 (AFF). PL 2005, c. 222, §2 (AMD). PL 2009, c. 30, §2 (RP).

CHAPTER 115

INTERLOCAL COOPERATION

§2201. Purpose

It is the purpose of this chapter to permit public agencies of the State or any adjoining state, including but not limited to municipalities, counties and school administrative units, and federal agencies and Indian tribes and their political subdivisions to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby to provide services and facilities within the State in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of communities. [PL 2009, c. 636, Pt. D, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 696, §13 (AMD). PL 2009, c. 636, Pt. D, §1 (AMD).

§2202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Public agency. "Public agency" means:

A. Any political subdivision of the State, as defined in section 2252, or any adjoining state; or [PL 2003, c. 696, §14 (AMD).]

B. [PL 2003, c. 696, §15 (RP).]

C. Any agency of State Government or the Federal Government. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 696, §§14, 15 (AMD).]

2. Party. "Party" means a public agency or the following federally recognized Indian tribes or their political subdivisions:

A. The Passamaquoddy Tribe; and [PL 2009, c. 636, Pt. D, §2 (NEW).]

B. The Penobscot Nation. [PL 2009, c. 636, Pt. D, §2 (NEW).]
[PL 2009, c. 636, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 279, §1 (AMD). PL 2003, c. 696, §§14,15 (AMD). PL 2009, c. 636, Pt. D, §2 (AMD).

§2203. Joint exercise of powers

Any power or powers, privileges or authority exercised or capable of exercise by a party to an agreement under this chapter may be exercised and enjoyed jointly or cooperatively with any other party to the extent that federal laws, when applicable, permit the joint or cooperative exercise. When acting jointly or cooperatively with any party, any agency of State Government may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency. [PL 2009, c. 636, Pt. D, §3 (AMD).]

1. Agreement. Any 2 or more parties may enter into agreements with one another for joint or cooperative action under this chapter. The governing bodies of the participating parties must take appropriate action by ordinance, resolution or other action under law before any such agreement may become effective.
[PL 2009, c. 636, Pt. D, §3 (AMD).]

2. Specifications. Any agreement made under this chapter must specify the following:

A. Its duration; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, provided the entity may be legally created; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Its purpose; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The method to be used to partially or completely terminate the agreement and to dispose of property upon termination; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any other necessary and proper matters. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Additional items. If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, in addition to the items listed in subsection 2, must contain the following.

A. It must provide for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, all parties to the agreement must be represented. [PL 2009, c. 636, Pt. D, §3 (AMD).]

B. It must provide the manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2009, c. 636, Pt. D, §3 (AMD).]

4. Responsibility. No agreement made under this chapter may relieve any party of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement made under this chapter. This performance may be offered in satisfaction of the obligation or responsibility.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

5. Liability. An action is maintainable against any party whose default, failure of performance or other conduct caused or contributed to the incurring of damage or liability by the other parties jointly.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

6. Notice to regional councils. Any agreement made under this chapter is subject to the reporting requirements of section 2342, subsection 6, if applicable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Liberal construction. It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling laws, this chapter must be liberally construed toward that end.

[PL 2009, c. 636, Pt. D, §3 (AMD).]

8. Limitation. Notwithstanding any other provision of this chapter:

A. No powers, privileges or authority may be jointly or cooperatively exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of the agreement, or by each of the several parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the agreement; or [PL 2009, c. 636, Pt. D, §3 (AMD).]

B. No essential legislative powers, taxing authority or eminent domain power may be delegated by agreement to a joint authority or administrative entity. [PL 2009, c. 636, Pt. D, §3 (AMD).]

[PL 2009, c. 636, Pt. D, §3 (AMD).]

9. Included powers. Without limiting the powers, privileges or authority that may be jointly or cooperatively exercised pursuant to this chapter, any 2 or more parties may enter into an agreement to establish a regional municipal utility district for any or all of the following purposes:

A. To provide or, through public-private partnerships, to support or promote the provision of any of the following:

(1) Broadband services; and

(2) Internet services; and [PL 2015, c. 222, §1 (NEW).]

B. To issue revenue bonds in support of any of the activities undertaken pursuant to paragraph A. [PL 2015, c. 222, §1 (NEW).]

Nothing in this subsection exempts a regional municipal utility district from any applicable provisions of Title 35-A.
[PL 2015, c. 222, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 636, Pt. D, §3 (AMD). PL 2015, c. 222, §1 (AMD).

§2204. Filing of agreement

Before becoming effective, an agreement made under this chapter must be filed with the clerk of each concerned municipality and the Secretary of State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2205. Approval by state officers

If an agreement made under this chapter deals in whole or in part with the provision of services or facilities with regard to which an officer or agency of the State Government has constitutional or statutory powers of control, the agreement must be submitted to the state officer or agency having that power of control before becoming effective. The state officer or agency shall approve or disapprove it as to all matters within the state officer's or agency's jurisdiction. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The officer or agency shall approve any agreement submitted to the officer or agency under this chapter unless the officer or agency finds that it does not in substance comply with any law regarding matters within that officer's or the agency's jurisdiction. The officer or agency shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement substantially fails to meet the requirements of law. Failure to disapprove an agreement submitted under this chapter within 30 days of its submission constitutes approval of the agreement. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2206. Funds, personnel and services

Any party entering into an agreement under this chapter may appropriate funds and may sell, lease, give or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing any personnel or services for that purpose that it may legally furnish. [PL 2009, c. 636, Pt. D, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 636, Pt. D, §4 (AMD).

§2207. Former districts unaffected

In municipalities which acted under the repealed section 8-A of chapter 90-A of the Revised Statutes of 1954, the district formed remains effective so far as it complies with this chapter and may

be continued accordingly. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2208. Agreements involving federally recognized Indian tribes

This chapter does not apply to and has no effect on any agreement to which any federally recognized Indian tribe is a party if the agreement has not been entered into under the authority of this chapter. [PL 2009, c. 636, Pt. D, §5 (NEW).]

SECTION HISTORY

PL 2009, c. 636, Pt. D, §5 (NEW).

CHAPTER 117

PUBLIC SELF-FUNDED POOLS

§2251. Intent

The Legislature finds that: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Insurance protection necessary. Insurance protection is essential to the proper functioning of this State's political subdivisions;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Burden on political subdivisions. The resources of political subdivisions are burdened by the securing of that protection through standard carriers;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Political subdivision services are vital. The services provided by this State's political subdivisions are vital to the people of the State; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Contributions to pool are public purpose. All financial and administrative contributions made by a political subdivision to a public self-funded pool, as authorized by chapter 115 and section 3001 and created under this chapter, are made for a public and governmental purpose and that the contributions benefit each contributing political subdivision.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2252. "Political subdivision" defined

"Political subdivision" means any municipality, plantation, county, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district, municipal transmission and distribution utility and school administrative unit. "School

administrative unit" has the same meaning as found in Title 20-A, section 1, subsection 26. [PL 1999, c. 657, §11 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 657, §11 (AMD).

§2253. Public self-funded pools; powers; limitations

1. Coverage. Any public self-funded pool formed by 10 or more municipalities or school administrative districts or an organization representing 10 or more political subdivisions may provide risk management and coverage for pool members and employees of pool members, for acts or omissions arising out of the scope of their employment, including any of the following:

A. Casualty insurance, including general and professional liabilities coverage, but excluding workers' compensation insurance provided under Title 39-A; [PL 1991, c. 885, Pt. E, §40 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

B. Property insurance, including marine insurance and inland navigation, transportation, boiler and machinery insurance coverage; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Automobile insurance and protection against other liability and loss associated with the ownership of motor vehicles; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Surety and fidelity insurance coverage; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Environmental impairment insurance coverage. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1991, c. 885, Pt. E, §40 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

1-A. Self-funded pool for medical expenses incurred by county jails. A public self-funded pool formed by 5 or more counties or by an organization representing 5 or more counties may provide risk management and coverage for pool members for medical expenses incurred by county jails for prisoners. A self-funded pool established pursuant to this subsection may collect a premium from pool members to cover 80% of medical expenses totaling $10,000 or more incurred for any one prisoner.
[PL 2001, c. 97, §1 (NEW).]

2. Limitations. A public self-funded pool may not provide for hospital, medical, surgical or dental benefits to the employees of the member political subdivisions in the pool except when those benefits arise from the obligations and responsibilities of the pool in providing automobile insurance coverage and protection against other liability and loss associated with the ownership of motor vehicles.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §15 and Pt (AMD).]

3. Excess insurance; reinsurance. A public self-funded pool shall obtain excess insurance or reinsurance. Aggregate excess insurance to be purchased by the pool under its plan shall be bound before the effective date of the plan. The insurance shall limit the exposure of the pool to a defined level both as to ultimate claims values and loss ratio at which recovery from the insurer will be realized. The attachment point of continuing aggregate excess coverage shall provide risk relief to the plan adequate to its financing needs.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Amounts to be paid when coverage issued. Any member joining the pool before the effective date of the plan or during the first year of operation must pay at least 25% of the first year's annual contribution before coverage becomes effective.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Underwriting guidelines. Prior to the operation of the pool's plan, underwriting guidelines shall be adopted which embody rate charges to prospective members at a level adequate to its financial needs as certified by the pool's actuary. Fixed costs of operations shall likewise be covered for the first prospective fund year and an overlay sufficient to reasonably meet immediate claims costs shall be held in a separate account to be used solely for this purpose.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Actuarial advisory opinion. Prior to the operation of the pool's plan, the pool must obtain an independent actuarial advisory opinion report given by a member of the American Academy of Actuaries qualified as a casualty loss reserve specialist as defined by the National Association of Insurance Commissioners. Two copies of this report shall be filed with the Superintendent of Insurance; one copy shall be filed with each member of the board of directors; and one copy shall be provided to each prospective pool member. The report shall address:

A. The financial viability of the plan; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Ultimate risk exposures attendant to each line being underwritten by the plan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. General powers. A public self-funded pool, for the purposes of carrying on the business of the public self-funded pool whether or not a body corporate, may:

A. Sue or be sued; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Make contracts; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Hold and dispose of real property; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Borrow money, contract debts and pledge assets in the name of the public self-funded pool. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Establishment as separate legal or administrative entity. The public self-funded pool may be established as a separate legal or administrative entity for purposes of effectuating public self-funded pool agreements.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A15,C8,C10 (AMD). PL 1991, c. 885, §E40 (AMD). PL 1991, c. 885, §E47 (AFF). PL 2001, c. 97, §1 (AMD).

§2254. Public self-funded pool not insurance company

Any public self-funded pool operating under this chapter is not an insurance company, reciprocal insurer or insurer under the laws of the State. The development, administration and provision of public self-funded pool programs and coverages authorized by section 2253, subsection 1, by the governing authority created to administer the pool does not constitute doing an insurance business. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2255. Contract establishing public self-funded pool; provisions

Any contract entered into under this chapter must provide: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Financial plan. A financial plan setting forth in general terms:

A. The insurance coverages to be offered by the public self-funded pool; applicable deductible levels; and the maximum level of claims which the pool will self-insure; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The amount of cash reserves to be set aside for the payment of claims; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The amount of insurance to be purchased by the pool to provide coverage over and above the claims which are not satisfied directly from the pool's resources and the terms of that policy set forth in section 2253, subsection 3; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The amount of aggregate excess insurance coverage to be purchased; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Management plan. A plan of management which provides for all of the following:

A. The means of establishing the governing authority of the pool; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The responsibility of the governing authority with regard to fixing contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposal of surpluses and

administering the pool in the event of termination or insolvency; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The basis upon which new members may be admitted to and existing members may leave the pool; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The identification of funds and reserves by exposure area; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Other provisions necessary or desirable for the operation of the pool; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The selection of a governing authority, which shall be a board of directors for the pool, a majority of whom must be elected or appointed officials of pool members and 2 of whom must be members of the public from the areas served by the pool who are not currently serving as either elected or appointed officials; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Assessments. A provision that, if the assets of a public self-funded pool are at any time actuarily determined to be insufficient to enable the pool to discharge its legal liabilities and other obligations and to maintain actuarily sound reserves, it shall, within 30 days of that determination, make up the deficiency or levy a prorated assessment upon its members for the amount needed to make up the deficiency.

A. Members of the pool shall be given 30 days notice of any assessment due. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The contract must provide sanctions for any failure to comply with a mandatory assessment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2256. Audit requirements

1. Filing of audited financial statements. Each public self-funded pool shall file with the members of the pool, by the last day of the 6th month following the end of the pool's fiscal year, audited financial statements certified by an independent certified public accountant. The financial statement must include, but is not limited to:

A. Actuarially certified appropriate reserves for known claims and expenses associated with those claims; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Claims incurred but not reported and expenses associated with those claims; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Unearned premiums; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Reserve for bad debts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The audited financial statement shall include information concerning the adequacy of the plan. This report shall result from a charge by the directors to the pool's actuary and auditor and shall address excess insurance, charges for coverage to members, service agent's costs and costs of administration of the program.

The actuarial opinion must be given by a member of the American Academy of Actuaries qualified as a casualty loss reserve specialist as defined by the National Association of Insurance Commissioners. Two additional copies of the audited financial statements shall be filed with the Superintendent of Insurance.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Failure to provide for audited financial statements. If a public self-funded pool fails to provide for the audited financial statements required by subsection 1, the Superintendent of Insurance shall perform or cause to be performed the audit. The public self-funded pool shall reimburse the Superintendent of Insurance for the cost of the audit.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 119

REGIONAL COOPERATION

SUBCHAPTER 1

REGIONAL COUNCILS

ARTICLE 1

GENERAL PROVISIONS

§2301. Declaration of policy

The Legislature recognizes that a high level of cooperation and understanding between the State and its local governments is necessary to achieve common public goals and that coordination through regional councils is a way to achieve improved state and local cooperation. The Legislature further recognizes that regional councils are uniquely qualified to assist in the development of technical

capacities of local governments; to develop regional policies, services and solutions to meet local needs; and to serve as a vital link between local governments and the State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2302. Forms of regional councils

The Legislature recognizes councils of governments and regional planning commissions as forms of regional councils. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2303. Lead agency

1. Department of Agriculture, Conservation and Forestry. The Department of Agriculture, Conservation and Forestry shall serve as the coordinator between regional councils and the State, shall administer state funds supporting regional council tasks and may provide technical assistance to regional councils as appropriate.
[PL 2011, c. 655, Pt. JJ, §11 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

2. Rulemaking. The Department of Agriculture, Conservation and Forestry may adopt rules to create standardized contracts and administrative and audit requirements for state funds received by regional councils.
[PL 2011, c. 655, Pt. JJ, §11 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2011, c. 655, Pt. JJ, §11 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV).

§2304. Tax status

Regional councils established in accordance with this Title are tax-exempt institutions which are exempt only from income and sales taxes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2305. Construction

This subchapter must be liberally construed toward the end of enabling councils to implement municipal programs and services on behalf of member municipalities, while avoiding the creation of special districts or other legal or administrative entities to accomplish these purposes. Programs and services may include, but are not limited to, programs and services for transit, solid waste, household

hazardous waste, economic development, code enforcement, general financial and administrative activities and joint purchasing. [PL 2007, c. 215, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 215, §1 (AMD).

ARTICLE 2

COUNCILS OF GOVERNMENTS

§2311. Establishment

The municipal officers of any 2 or more municipalities by appropriate action may enter into an agreement, between or among those municipalities, for the establishment of a regional council of governments. [PL 1995, c. 233, Pt. C, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 233, §C2 (AMD).

§2312. Contents of agreement

The agreement must provide for representation, but at least 1/2 of the representatives of each member must be municipal officers. The agreement must specify the organization, the method of withdrawal, the method of terminating the agreement and the grounds for suspension of member municipalities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2313. Powers and duties

1. Powers. The council may:

A. Study any governmental needs and opportunities common to 2 or more members of the council that it considers appropriate, including, but not limited to, matters affecting health, safety, welfare, education, economic conditions and regional development; [PL 2007, c. 215, §2 (AMD).]

B. Promote cooperative arrangements and coordinate action among its members, including, but not limited to, arrangements and actions with respect to transit services, joint purchasing, solid waste management and household waste management; [PL 2007, c. 215, §2 (AMD).]

C. Make recommendations for review and action to its members and other public agencies that perform functions within the region; and [PL 2007, c. 215, §2 (AMD).]

D. Prepare and maintain a comprehensive regional plan. [PL 2007, c. 215, §2 (NEW).]
[PL 2007, c. 215, §2 (AMD).]

2. Authority. The council, on behalf of one or more member municipalities and upon appropriate action of the legislative bodies of one or more member municipalities, may exercise any power, privilege or authority capable of exercise by a member municipality and necessary or desirable for dealing with problems of local or regional concern, except essential legislative powers, taxing authority or eminent domain power. This authority is in addition to any other authority granted to municipalities

by the general laws and includes, but is not limited to, the formation of transit, solid waste and other services operations.
[PL 2007, c. 215, §3 (AMD).]

3. Standing committee. The council, by appropriate action of the legislative bodies of the member municipalities, may establish a standing committee to prepare and maintain a comprehensive regional plan.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Transfer. Where a regional planning commission has been established under article 3, the member municipalities, by appropriate action, may provide for the transfer of all assets, liabilities, rights and obligations of the commission to the council and provide for the dissolution of the commission.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 502, Pt. A, §113 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 502, §A113 (AMD). PL 2007, c. 215, §§2, 3 (AMD).

§2314. Bylaws

The council shall adopt bylaws designating the officers of the council and providing for the conduct of its business. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2315. Staff

The council may employ any staff and consult and retain any experts that it considers necessary. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2316. Finances; annual report

1. Expenses. The legislative bodies of the member governments may appropriate funds under their home rule authority to meet the expenses of the council. Services of personnel, use of equipment and office space and other necessary services may be accepted from members as part of their financial support.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Funds. The council may accept funds, grants, gifts and services from:

A. The Federal Government; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The State or its departments, agencies or instrumentalities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any other governmental unit, whether participating in the council or not; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Private and civic sources. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Report. The council shall make an annual report of its activities to the member governments. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Borrowing. To accomplish the purposes of this subchapter and for paying any indebtedness and any necessary expenses and liabilities incurred for those purposes, the council may borrow money and issue therefor its negotiable notes having any terms and provisions that the governing body of the council determines. The council may contract with one or more member municipalities for the receipt of funds to accomplish any of the purposes authorized by this article and may incur indebtedness in anticipation of the receipt of these funds by issuing its negotiable notes payable in not more than one year. The notes may be renewed from time to time by the issue of other notes, provided that no notes may be issued or renewed in an amount which at the time of issuance or renewal exceeds the amount of funds remaining to be paid under contracts with one or more member municipalities.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Guarantees. Notwithstanding any law, charter, ordinance or limitation to the contrary, any one or more member municipalities of a regional council may guarantee notes or other indebtedness or obligations of the regional council.
[PL 2007, c. 215, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 512 (AMD). PL 2007, c. 215, §4 (AMD).

ARTICLE 3

REGIONAL PLANNING COMMISSIONS

§2321. Establishment; purposes

1. Establishment. Any 7 or more municipalities or unorganized territory townships, all of which are within one regional planning and development district and within one subdistrict if any, by vote of their municipal officers, may join together to form a regional planning commission.

A. If 4 to 6 municipalities desire to form a regional planning commission, each proposed member municipality must receive the consent of the commissioners of the county in which the municipality is located.

(1) Upon receiving a request for the formation of a regional planning commission under this paragraph, the county commissioners shall notify all proposed member municipalities and any

regional planning commission in the county of the request and shall hold a public hearing on the request.

(2) The county commissioners shall grant a request by a municipality to join in the formation of a regional planning commission composed of 4 to 6 municipalities if that formation furthers the purposes of this chapter. [PL 1989, c. 202 (NEW).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 202 (AMD); PL 1989, c. 508, §2 (AMD).]

2. Purposes. The purposes of a regional planning commission are to:

A. Promote cooperative efforts toward regional development; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Prepare and maintain a comprehensive regional plan.

(1) The public must be given an adequate opportunity to be heard in the preparation of a comprehensive plan; [PL 2007, c. 215, §5 (AMD).]

C. Coordinate with state and federal planning and development programs; [PL 2007, c. 215, §5 (AMD).]

D. Provide planning assistance and advisory services to municipalities; and [PL 2007, c. 215, §5 (AMD).]

E. Provide programs and services to municipalities. [PL 2007, c. 215, §5 (NEW).]

[PL 2007, c. 215, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 202 (AMD). PL 1989, c. 508, §2 (AMD). PL 2007, c. 215, §5 (AMD).

§2322. Incorporation; powers

Regional planning commissions shall be incorporated under Title 13, chapter 81, and possess all the powers of a corporation organized without capital stock, except as limited by this article. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2323. Representation

The municipal members of the commission's governing body shall consist of representatives of each member municipality or township appointed by the municipal officers. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 508, §3 (AMD).]

1. Municipal representatives. Municipalities or townships with a population of less than 10,000, as determined by the last Federal Decennial Census, shall have 2 representatives. Municipalities with populations greater than 10,000, as determined by the last Federal Decennial Census, shall have 2 representatives and an additional representative for each 10,000 increment in population, or fraction exceeding 1/2 of that number, over 10,000.

At least one representative for each municipality or township regardless of size must be a municipal officer or a designee elected by a majority vote of the municipal officers. This designee serves at the will of the municipal officers. All other representatives shall serve for terms of 2 years and may be

removed by the municipal officers for cause after notice and hearing. A permanent vacancy shall be filled for the unexpired term in the same manner as a regular appointment.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 508, §3 (AMD).]

2. County representatives. A regional planning commission, in its bylaws, shall make available voting membership to any county within its regional planning and development district or subdistrict as provided in section 1201. Each member county shall have 2 representatives, to be appointed by vote of the county commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Alternates. The commission, by bylaw, may provide for one alternate representative for each member municipality, township or county.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 508, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 508, §3 (AMD).

§2324. Bylaws; records

The commission shall adopt bylaws, not inconsistent with this article, designating the officers of the commission and providing for the conduct of its business. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The minutes of the proceedings of the commission must be filed in the commission's office. These minutes are a public record. Copies of the minutes must be posted on a publicly accessible site on the Internet and be provided to the municipal officers and the planning board of each member municipality upon request. [PL 2007, c. 215, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 215, §6 (AMD).

§2325. Finances

1. Budget; member contributions. The commission shall prepare an annual budget and shall determine on an equitable basis the contribution of each member toward the support of the commission.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Funds. The commission may accept funds, grants, gifts and services from:

A. The Federal Government; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The State or its departments, agencies or instrumentalities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any other governmental unit, whether a member or not; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Private and civic sources. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Prohibition. No department, agency or instrumentality of the State may provide any funds, grants, gifts or services to any commission which does not provide the results of any financial audit of any of its operations, including those of its subsidiary corporations, to any of its constituent municipalities.

[PL 1987, c. 884, Pt. C, §§3 and 6 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1987, c. 884, §§C3,C6 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2326. Staff services

To avoid duplication of staffs for various regional bodies assisted by the Federal Government, a commission may provide basic administrative, research and planning services for any regional development and planning bodies established in this State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

REGIONAL PLANNING AND DEVELOPMENT DISTRICTS

§2341. Regional planning and development districts

1. Districts. The Governor may designate regional planning and development districts and subdistricts for the purpose of coordinating policies, plans and programs among and within the various levels of government affecting the development of those districts or subdistricts.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Revisions. The Governor, after consulting with the Department of Economic and Community Development, regional councils and the officers of the municipalities and counties involved, may revise the district boundaries to reflect changing conditions or otherwise to fulfill the purposes of this subchapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Agreements. The Governor may enter into agreements on behalf of the State with the governor of an adjoining state or, with the consent of the United States Congress, with the premier of an adjoining province of Canada to establish interstate or international regional planning or development districts.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2342. Planning and program review

1. Review authority. The Governor may designate a regional council as the authorized agency to receive, review and comment on federal projects and plans affecting regional planning, coordination and development, those significant local and state projects that exceed $200,000 in total cost and those state projects involving more than one municipality.

A. When 2 or more contiguous regional councils are affected, and the Department of Economic and Community Development determines that:

(1) A project clearly concerns the jurisdictional area of only one regional council, that council is the authorized review agency; or

(2) A project clearly concerns the jurisdictional area of 2 or more councils, joint receipt and review and comment is required. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When the Department of Economic and Community Development determines that a project clearly concerns both incorporated and unincorporated areas within a district, joint receipt and review and comment by the affected regional council or councils and the Maine Land Use Planning Commission is required. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2011, c. 682, §38 (REV).]

C. All regional planning councils must complete the review under this subsection within 30 days after receiving the project information unless the requesting agency agrees to extend this period. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2011, c. 682, §38 (REV).]

2. Planning review of federal program grant application. All applications for federal program grants affecting regional planning, coordination and development, including programs under Section 204 of the United States Demonstration Cities and Metropolitan Development Act of 1966, Public Law 89-754, and the United States Intergovernmental Cooperation Act of 1968, Public Law 90-577, and the objectives set forth in the United States Office of Management and Budget Circular A-95, shall be submitted to the regional council for review and comment. Subsection 5 applies to these grant applications.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Planning review of state agency long-term plans. Each state department, commission, board or agency shall submit to the regional council, for review and comment, all long-term comprehensive plans that will have a significant regional effect within the council's jurisdiction. The regional council shall complete its review within 30 days after receiving the long-term comprehensive plan. When 2 or more regional councils coexist within a district, subsection 1 applies.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Planning review of local government and special district plans and programs. Each municipality, watershed district and soil conservation district, all or part of which lies within the jurisdictional area of the regional council, shall submit to the council, for comment and

recommendation, its long-term comprehensive plans or any matter which in the council's judgment has a substantial effect on regional development, including, but not limited to, plans for land use.

A. No action may be taken to institute any such plan or part of a plan until 30 days after all the relevant information has been submitted to the regional council for review and comment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The council shall notify each municipality or special district, which may be affected by the plans, of:

(1) The general nature of the plan;

(2) The date of submission; and

(3) The identity of the unit submitting the plans. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The council may conduct a hearing on the submitted plans if it considers the hearing to be in the best interest of the region. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Review of applications for state-aid programs. Within each planning and development district or subdistrict in which a regional council has been organized, the governing body of each governmental unit and special district shall submit to the regional council for review any applications to state agencies for loans or grants-in-aid before the application is made. The regional council shall determine whether or not the proposed application is properly coordinated with other existing or proposed projects within the district, as well as any district plans or policies where they exist. In making this determination, the council shall inform both the applicant agency and the granting authority of its opinion within 30 days.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Referral of proposals for interlocal agreements or formation of special purpose districts. Before any 2 or more municipalities may join together through an interlocal agreement or the formation of a special purpose district under the Maine Revised Statutes or any special act for purposes of jointly developing or operating physical facilities and services for the performance of municipal or regional functions, the municipalities shall submit the proposal to the regional council or councils within whose areas of jurisdiction the municipalities are located. The council or councils, within 30 days, shall render an advisory report of the regional significance of the proposal, unless the referring municipalities agree to extend this period.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Notice to regional council to establish or change land use zones. When a municipality proposes to establish or change a land use zone or any regulation affecting the use of a zone, any portion of which is within 500 feet of the boundary of another municipality located within the jurisdiction of a regional council, the municipality shall give written notice to the council of its public hearing to be held in relation to that establishment or change. The council shall study the proposal and shall report its findings and recommendations to the municipality at or before the public hearing. Failure to submit the council's advisory report at or before the hearing constitutes approval.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Local assistance. Regional councils may provide local assistance as provided in this subsection.

A. The council may make recommendations on the basis of its plans and studies to local planning boards or to the municipal officers of any member and to any county, state or federal authorities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A municipal planning board may use any part of the regional planning studies which pertain to the municipality in its own comprehensive plan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The council may assist any of its members in solving a local planning problem. All or part of the cost of local assistance may be paid by any of its members. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Comprehensive plans to comply with standards. Any comprehensive plans developed pursuant to this subchapter shall comply with the provisions of subpart 6-A.
[PL 1989, c. 878, Pt. C, §46 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 878, §C46 (AMD). PL 2011, c. 682, §38 (REV).

§2343. Regional quality of place investment strategies

(REPEALED)

SECTION HISTORY

PL 2009, c. 483, §3 (NEW). PL 2011, c. 655, Pt. EE, §19 (RP). PL 2011, c. 655, Pt. EE, §30 (AFF).

CHAPTER 120

QUASI-MUNICIPAL CORPORATIONS OR DISTRICTS

§2351. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Affected municipalities. "Affected municipalities" means all those municipalities which, in whole or in part, lie within the boundaries of the quasi-municipal corporation or district.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Charter amendment. "Charter amendment" means a change in the charter of a quasi-municipal corporation or district which is not a charter revision.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Charter revision. "Charter revision" means a change in the charter of a quasi-municipal corporation or district which has an effect on:

A. The number of or method of selecting trustees; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The powers of trustees; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The powers of the corporation or district; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Election procedures, other than election dates; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The boundaries of the corporation or district; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Methods of establishing rates; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Any debt limitation; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Methods of land acquisition, including eminent domain; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Amount of spending without voter approval; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. Liens. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Quasi-municipal corporation or district. "Quasi-municipal corporation or district" means any governmental unit that includes a portion of a municipality, a single municipality or several municipalities and which is created by law to deliver public services but which is not a general purpose governmental unit. Quasi-municipal corporation or district does not include School Administrative Districts or hospital districts.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Quasi-municipal corporation or district voters. "Quasi-municipal corporation or district voters" means the voters who reside within the boundaries of the quasi-municipal corporation or district.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2352. Charter amendments

If, after the board of trustees of the quasi-municipal corporation or district holds a public hearing on the proposed amendment, the board unanimously votes in favor of an amendment to the charter of the quasi-municipal corporation or district, the board shall submit that amendment to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 2355. The amendment is effective upon the effective date of the omnibus legislation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2353. Charter revisions

1. Board of trustees and municipal legislative bodies. If, after the board of trustees of the quasi-municipal corporation or district holds a public hearing on the proposed revision, a majority of the board and a majority of each municipal legislative body of the affected municipalities vote in favor of a revision of the charter of the quasi-municipal corporation or district, the proposed revision shall be submitted to the quasi-municipal corporation or district voters in each affected municipality according to the procedures in section 2354. If the charter revision passes, the trustees of the quasi-municipal corporation or district shall submit that change to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 2355. The revision is effective upon the effective date of the omnibus legislation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Alternative method, initiated petition. On the written petition of a number of voters equal to at least 20% of the total number of the votes cast in the affected municipalities in the last gubernatorial election, but in no case less than 10 voters, the proposed revision shall be submitted to the quasi-municipal corporation or district voters in each affected municipality according to the procedures in section 2354. If the charter revision passes, the trustees of the quasi-municipal corporation or district shall submit that change to the joint standing committee of the Legislature having jurisdiction over utilities to be included in the annual omnibus legislation as provided in section 2355. The revision is effective upon the effective date of the omnibus legislation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2354. Procedure for referenda on charter changes

1. Board of trustees of quasi-municipal corporation or district. When a referendum on a charter revision is required under section 2353, the board of trustees of the quasi-municipal corporation or district shall initiate a corporation or district referendum and place before the voters the specific charter revision which has been proposed by the board or the petitioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Method of calling a corporation or district referendum. A corporation or district referendum shall be initiated by a warrant prepared and signed by a majority of the board of trustees. The warrant shall be countersigned by the municipal officers in each municipality where the warrants are posted.

A. The warrant shall direct the municipal officers of the affected municipalities to call a referendum on a date and time determined by the board of trustees. A warrant shall be prepared and distributed at least 30 days before the referendum.

(1) The warrant shall be directed to a resident of one of the affected municipalities by name ordering the resident to notify the municipal officers of each of the affected municipalities to call a town meeting or municipal election on the date specified by the board of trustees. No other date may be used. The person who serves the warrant shall make a return on the warrant stating the manner of service and the time when it was given.

(2) The warrant shall be served on the municipal clerk of each of the affected municipalities by delivering an attested copy of the warrant in hand within 3 days of the date of the warrant. The municipal clerk, on receipt of the warrant, shall immediately notify the municipal officers within the municipality. The municipal officers shall forthwith meet, countersign and have the warrant posted.

(3) The warrants and other notices for the referendum shall be in the same manner as provided in Title 21-A. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The warrant shall set forth the articles to be acted on in each municipal referendum. The articles shall have the following form.

"Shall the charter of the quasi-municipal corporation or district of be revised to (insert summary of revision)?

Yes No " [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Referendum procedures. The following procedures apply to a corporation or district referendum.

A. The board of trustees shall prepare and furnish the required number of ballots for carrying out the referendum as posted, including absentee ballots. It shall prepare and furnish all other materials necessary to fulfill the requirements for voting procedures. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Voting shall be held and conducted as follows.

(1) The voting at referenda held in towns shall be held and conducted in accordance with sections 2524 and 2528 to 2532, even though the town has not accepted the provisions of sections 2528 and 2529. The facsimile signature of the clerk under section 2528, subsection 6, paragraph F, shall be that of the chairman of the board of trustees. If a corporation or district referendum is called to be held simultaneously with any statewide election, the voting in towns shall be held and conducted in accordance with Title 21-A, except that the duties of the Secretary of State shall be performed by the board. The absentee voting procedure of Title 21-A shall be used, except that the duties of the Secretary of State shall be performed by the board.

(2) The voting at referenda in cities shall be held and conducted in accordance with Title 21-A, including the absentee voting procedure, except that the duties of the Secretary of State shall

be performed by the board of trustees. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The return and counting of votes shall be as follows.

(1) The municipal clerk shall, within 24 hours of the determination of the results of the vote in the municipality, certify and send to the board of trustees the total number of votes cast in the affirmative and in the negative on the article.

(2) As soon as all of the results from all of the municipalities have been returned to the board of trustees, the board shall meet and compute the total number of votes cast in all of the affected municipalities in the affirmative and in the negative on the article.

(3) If the board of trustees determines that there were more votes cast in the affirmative than in the negative on the article, it shall declare that the article has passed.

(4) If the board of trustees determines that the total number of votes cast on the article in the affirmative is equal to or less than those cast in the negative, it shall declare that the article has not passed.

(5) The board of trustees shall enter its declaration and computations in its records and send certified copies of it to the clerk of each affected municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Reconsideration. The procedure to reconsider votes taken at a corporation or district referendum shall be as follows.

A. The board of trustees shall, within 60 days, initiate a new corporation or district referendum to reconsider the vote of the previous referendum if, within 7 days of the first referendum, at least 10% of the number of voters voting for the gubernatorial candidates in the last gubernatorial election in the affected municipalities petition to reconsider a prior corporation or district referendum vote. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A reconsideration referendum is not valid unless the number of persons voting in that referendum is at least equal to the number who voted in the prior corporation or district referendum. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. If the margin of the vote being reconsidered was between 10% and 25%, the petitioners shall post a bond with the petition equal to the actual and reasonable costs of the new referendum. If the margin of the vote being reconsidered exceeded 25%, the petitioners shall post an additional bond equal to the actual and reasonable costs which may be incurred as a result of the delay of an authorization or approval granted in the prior corporation or district referendum. If the petitioners are successful, the bonds shall be canceled. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Recount. Upon written application of 10% of the persons, or 100 persons, whichever is less, whose names were checked on the voting lists at any quasi-municipal corporation or district referendum

held under this chapter, a recount must be granted. The time limits, rules and all other matters applying to candidates under section 2531-B apply equally to applicants for recount.
[PL 2011, c. 255, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, Pt. A, §2 (NEW). PL 1987, c. 737, Pt. C, §106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD). PL 1993, c. 608, §5 (AMD). PL 2011, c. 255, §2 (AMD).

§2355. Annual omnibus legislation

The joint standing committee of the Legislature having jurisdiction over utilities shall report each year an omnibus bill including amendments to and revisions of the charters of quasi-municipal corporations or districts which have been submitted to the committee as provided in this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2356. General provisions

1. Other legislation not precluded. This chapter does not preclude the introduction of any legislation concerning quasi-municipal corporation or district charter amendments or revisions.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Effect of contrary charter provisions. Any portion of the charter of any quasi-municipal corporation or district which is contrary to this chapter has no effect.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Trustees' compensation; water districts and sewer districts. This chapter does not affect the procedures concerning changes in the compensation of trustees of water districts and sewer districts as provided in Title 35-A, section 6410, subsection 7 and Title 38, section 1036, subsection 7.
[PL 2013, c. 555, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 1995, c. 616, §1 (AMD). PL 2013, c. 555, §3 (AMD).

§2357. Public access to quasi-municipal decisions

1. Public notice and hearing required. All quasi-municipal corporations or districts must provide reasonable public notice and hearing, as provided by Title 5, section 8052, subsection 1 and Title 5, section 8053, before adopting any regulation or expanding or creating any program, except that notice need not be given to the Secretary of State for publication in the consolidated newspaper notice of agency rulemaking. In addition to the preceding notice requirements, a quasi-municipal corporation or district must publish notice in a newspaper of general circulation in the service area of the corporation or district at least 17 days, but not more than 24 days, in advance of a meeting at which a regulation will be adopted or a program expanded or created.
[PL 1995, c. 655, §1 (AMD).]

2. Regulation or program void. Except in the case of emergency regulations of limited duration, bond issues, rate proceedings or actions relating to indebtedness, any regulation adopted or program created or expanded by a quasi-municipal corporation or district after December 30, 1989, is void unless

the quasi-municipal corporation or district provided reasonable public notice and hearing as required by subsection 1 before adopting the regulation or creating or expanding the program.
[PL 1989, c. 479 (NEW).]

3. Exemption. This section does not apply to any public utility, as defined in Title 35-A, section 102, subsection 13, regulated by the Public Utilities Commission.
[PL 1991, c. 226 (NEW).]

SECTION HISTORY

PL 1989, c. 479 (NEW). PL 1991, c. 226 (AMD). PL 1995, c. 655, §1 (AMD).

SUBPART 3

MUNICIPAL AFFAIRS

CHAPTER 121

MEETINGS AND ELECTIONS

SUBCHAPTER 1

GENERAL PROVISIONS

§2501. Applicability of provisions

Except as otherwise provided by this Title or by charter, the method of voting and the conduct of a municipal election are governed by Title 21-A. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §2 (RPR).]

1. Clerk to perform duties of Secretary of State. When Title 21-A applies to any municipal election, the municipal clerk shall perform the duties of the Secretary of State prescribed by Title 21-A.
[PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 104, Pt. D, §2 (NEW).]

2. Qualifications for voting. The qualifications for voting in a municipal election conducted under this Title are governed solely by Title 21-A, section 111.
[PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 104, Pt. D, §2 (NEW).]

3. Determining and counting write-in votes. A municipality may choose the method of determining and counting write-in votes according to this subsection. Once a municipality has voted to accept the option under this subsection, the option applies to all municipal elections until the municipal officers hold a public hearing and the legislative body of the municipality votes to rescind the option at least 90 days before the next election of candidates by secret ballot.

A. After the municipal officers hold a public hearing, at least 90 days prior to an election of candidates by secret ballot, the legislative body of a municipality may vote to be governed by the provisions of Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A. Votes for a write-in candidate are counted only if that candidate has filed a timely declaration of write-in candidacy with the municipal clerk in accordance with Title 21-A, section 722-A, except that votes for write-in candidates who have not filed a declaration of write-in candidacy must be counted if:

(1) The printed ballot does not include a properly nominated candidate for the office; or

(2) A properly nominated candidate for the office listed on the ballot withdraws from the race before or on election day. [PL 2015, c. 160, §1 (NEW).]

B. In a municipality that has not voted under paragraph A to be governed by Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A, votes cast for write-in candidates must be counted if:

(1) The printed ballot does not include a properly nominated candidate for the office;

(2) A properly nominated candidate for the office listed on the ballot withdraws from the race before or on election day; or

(3) The number of write-in votes for an office as determined by a machine count or initial hand count exceeds the number of votes in that count for a candidate printed on the ballot.

Votes for write-in candidates may be counted even if none of the criteria listed in subparagraphs (1) to (3) are met in a municipality that has not voted to be governed by Title 21-A, section 696, subsection 2, paragraph C and Title 21-A, section 722-A. [PL 2015, c. 160, §1 (NEW).]

Nothing in this subsection requires a municipal clerk to count or tally write-in votes for a fictitious person, a deceased person or a person from outside the municipality when residency is a qualification of office or who is otherwise not qualified to be a candidate for the office for which the person is a write-in candidate.
[PL 2015, c. 160, §1 (NEW).]

4. Ballot questions. Notwithstanding the provision of Title 21-A, section 906, subsection 7 requiring sequential numbering of ballot questions, municipal officers may elect to list municipal initiative and referendum questions on the ballot using sequential capital letters of the alphabet instead of sequential numbers. All other provisions of Title 21-A, section 906, subsection 7 apply.
[PL 2019, c. 58, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 104, §D2 (RPR). PL 2015, c. 160, §1 (AMD). PL 2019, c. 58, §1 (AMD).

§2502. Campaign reports in municipal elections

1. Reports by candidates. A candidate for municipal office of a town or city with a population of 15,000 or more is governed by Title 21-A, sections 1001 to 1020-A, except that registrations and campaign finance reports must be filed with the municipal clerk instead of the Commission on Governmental Ethics and Election Practices. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, sections 1001 to 1020-A by vote of its legislative body at least 90 days before an election for office. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to those sections.

A. [PL 2009, c. 366, §10 (RP); PL 2009, c. 366, §12 (AFF).]
[PL 2011, c. 389, §60 (AMD); PL 2011, c. 389, §62 (AFF).]

2. Municipal referenda campaigns. Municipal referenda campaigns in towns or cities with a population of 15,000 or more are governed by Title 21-A, chapter 13, subchapter 4. The registrations and reports of political action committees and ballot question committees must be filed with the municipal clerk. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, chapter 13, subchapter 4 by vote of its legislative body at least 90 days before a referendum election. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to that subchapter.
[PL 2011, c. 389, §60 (AMD); PL 2011, c. 389, §62 (AFF).]

3. Public access to records. A town or city that receives registrations or reports pursuant to this section must keep them for 8 years.
[PL 2011, c. 389, §60 (AMD); PL 2011, c. 389, §62 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 483, §22 (AMD). PL 1997, c. 567, §2 (AMD). PL 1999, c. 645, §15 (AMD). PL 2009, c. 366, §10 (AMD). PL 2009, c. 366, §12 (AFF). PL 2011, c. 389, §60 (AMD). PL 2011, c. 389, §62 (AFF).

§2503. Reapportionment

1. Adoption by ordinance. Districts established for the purpose of electing, from each district, an equal number of municipal officers may be adjusted, by ordinance, by the municipal legislative body subject to the following conditions.

A. Each district must be formed of compact, contiguous territory. Its boundary lines may follow the center lines of streets. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Each district must contain as nearly as possible the same number of inhabitants as determined according to the latest Federal Decennial Census, but districts may not differ in number of inhabitants by more than 10% of the inhabitants in the smallest district created. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The ordinance must include a map and a description of the districts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The ordinance takes effect on the 30th day after adoption by the legislative body. The new districts and boundaries, as of the effective date, supersede previous districts and boundaries for the purposes of the next regular municipal election, including nominations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Failure to enact ordinance. The municipal legislative body must enact the reapportionment ordinance within 12 months after the Legislature has reapportioned the House and Senate districts pursuant to the Constitution of Maine, Article IV, Part First, Section 3 and Article IV, Part Second, Section 2 or after a court decision finalizing the reapportionment of districts. The ordinance must be enacted at least 90 days before a regular municipal election occurring within that 12-month period or the previous reapportionment ordinance applies to that election. If the legislative body fails to enact an ordinance within the 12-month period or at least 90 days before a regular election occurring after the 12-month period, all municipal officers to be elected must be elected at large and serve until their terms expire. Such at-large elections continue until the legislative body enacts an ordinance in accordance with subsection 1 at least 90 days before a regular municipal election.
[PL 2001, c. 537, §1 (AMD); PL 2001, c. 537, §2 (AFF).]

3. Referendum. Except when the municipal legislative body is the town meeting, the voters of the municipality may require the municipal legislative body to reconsider any ordinance adopted under subsection 1. If the legislative body does not repeal an ordinance so reconsidered, the voters may approve or reject it at a municipal election.

A. Any 5 voters may commence referendum proceedings by filing an affidavit with the municipal clerk stating:

(1) They will constitute the petitioners' committee;

(2) They will be responsible for circulating the petition and filing it in proper form;

(3) Their names and addresses;

(4) The address to which all notices to the committee are to be sent; and

(5) The ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk shall issue the appropriate petition blanks to the petitioners' committee. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Petitions under this subsection must meet the following requirements.

(1) Petitions must be signed by a number of voters of the municipality equal to at least 15% of the total number of voters in the municipality at the last presidential election.

(2) All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature must be executed in ink or indelible pencil and must be followed by the address of the person signing. While being circulated, petitions must have the full text of the ordinance sought to be reconsidered contained in or attached to the petition.

(3) When filed, each paper of a petition must have an affidavit, executed by the circulator of the petition, attached to it stating:

(a) That the circulator personally circulated the paper;

(b) The number of signatures on the paper;

(c) That all the signatures were signed in the circulator's presence;

(d) That the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.

(4) Petitions must be filed within 30 days after the municipal legislative body adopts the ordinance sought to be reconsidered. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The following procedure shall be followed after the petition is filed with the municipal clerk.

(1) Within 20 days after the petition is filed, the municipal clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of the clerk's certificate and files a supplementary petition upon additional papers within 10 days after receiving a copy of the certificate. This supplementary petition must comply with the requirements of paragraph B, subparagraphs (2) and (3). Within 5 days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of that certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend the

petition or request review under subparagraph (2), within the time required, the clerk shall promptly present the clerk's certificate to the municipal legislative body and the certificate is then a final determination as to the sufficiency of the petition.

(2) If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee, within 2 days after receiving the copy of the certificate, may file a request that it be reviewed by the municipal legislative body. The legislative body shall review the certificate at its next meeting following the filing of the committee's request and approve or disapprove it. This determination is then final as to the sufficiency of the petition.

(3) A final determination as to the sufficiency of a petition is subject to court review. A final determination of insufficiency, even if sustained upon court review, does not prejudice the filing of a new petition for the same purpose. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. When a petition is filed with the clerk under this subsection, the ordinance sought to be reconsidered is suspended from taking effect. This suspension ends when:

(1) There is a final determination of insufficiency of the petition;

(2) The petitioners' committee withdraws the petition;

(3) The council repeals the ordinance; or

(4) Thirty days have elapsed after a vote of the municipality on the ordinance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The following procedure shall be followed if a petition is determined to be sufficient.

(1) When a petition has been finally determined sufficient, the municipal legislative body shall promptly reconsider the referred ordinance by voting its repeal. If the legislative body fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the referred ordinance to the voters of the municipality.

(2) The vote of the municipality on a referred ordinance shall be held at least 30 days and not more than one year after the municipal legislative body's final vote on the ordinance. If no regular municipal election is to be held within this period, the legislative body shall provide for a special election; otherwise the vote shall be held at the same time as a regular election occurring within this period, except that the legislative body, in its discretion, may provide for a special election at an earlier date within the prescribed period. Copies of the referred ordinance shall be made available at the polls.

(3) The form of the ballot for the repeal of the ordinance shall be substantially as follows:

"Shall the ordinance entitled '.....' be repealed?

YES / / NO / /"

(The voters shall indicate their choice by a cross or check mark placed in the appropriate box opposite the words YES or NO.)

(4) A petition may be withdrawn at any time before the 15th day prior to the day scheduled for a vote of the municipality. The petitioners' committee must file with the municipal clerk a request for withdrawal signed by at least 4 members of the petitioners' committee. Upon filing this request, the petition has no further effect and all proceedings on the petition shall be terminated. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. If a majority of the voters who vote on a referred ordinance vote for its repeal, it is considered repealed upon certification of the election results. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §16 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §16 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Exception. This section does not apply to municipalities whose charters specify different methods of reapportionment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A116,C8,10 (AMD). PL 1989, c. 104, §§A116,C10 (AMD). PL 2001, c. 537, §1 (AMD). PL 2001, c. 537, §2 (AFF).

§2504. Circulation of petitions for local initiative

No municipality may enact any charter provision or ordinance prohibiting the circulation of petitions for any local initiative. A petition related to any local initiative, including, without limitation, petitions filed under section 2522, section 2528, subsection 5, the Constitution of Maine, Article IV, Part Third, Section 21, or a municipal charter provision authorizing local initiatives, may be circulated as provided in Title 21-A, section 903-A. [RR 1999, c. 1, §43 (COR).]

SECTION HISTORY

PL 1989, c. 92, §2 (NEW). RR 1999, c. 1, §43 (COR).

§2505. Recall of municipal officials

Except as otherwise provided by the municipality's ordinances or charter, an elected official of a municipality may be recalled from office pursuant to this section. For purposes of this section, "official" has the same meaning as section 2604, subsection 2. [PL 2011, c. 324, §1 (NEW).]

1. Petition for recall. On the written petition pursuant to subsection 5 of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, an election must be held to determine the recall of an elected official of that municipality.

[PL 2011, c. 324, §1 (NEW).]

2. Notice of intention. In order to initiate a recall election under subsection 1, the initiator of the petition shall file a notice of intention of recall with the municipal clerk of the municipality. A notice of intention of recall under this subsection must include the name, address and contact information of the person filing the notice and the name and position of the official subject to recall under this section. Only a person registered to vote in the municipality may file a notice of intention of recall under this subsection.

[PL 2011, c. 324, §1 (NEW).]

3. Petition forms. Within 3 business days of receipt of a notice of intention of recall under subsection 2, the municipal clerk shall prepare petition forms for the collection of signatures under subsection 4 and send notice to the initiator of the petition under subsection 2 that the petition forms are available. The municipality may charge the initiator of the petition a reasonable fee for preparing and providing the petition forms under this subsection. A petition form under this subsection must include:

A. At the top of the form, the name and position of the official subject to recall, the name and contact information of the initiator of the petition and the date by which the signatures must be submitted to the municipal clerk under subsection 4; [PL 2011, c. 324, §1 (NEW).]

B. Spaces for each voter's signature, actual street address and printed name; and [PL 2011, c. 324, §1 (NEW).]

C. Space at the bottom of the form for the name, address and signature of the person circulating the petition form. [PL 2011, c. 324, §1 (NEW).]

[PL 2011, c. 324, §1 (NEW).]

4. Collection and submission of signatures. A petition form under subsection 3 may be circulated or signed only by a registered voter of the municipality. A circulator of a petition form shall fill in the information required under subsection 3, paragraph C and sign the form prior to submission of the form to the municipal clerk. The initiator of the petition under subsection 2 shall collect the petition forms from all circulators and submit the signed petition forms to the municipal clerk within 14 days of receipt of notice from the clerk that the petition forms are available under subsection 3. A municipal clerk may not accept a petition form submitted more than 14 days after sending notice of availability to the initiator under subsection 3, and any voter signatures on that form are invalid.

[PL 2011, c. 324, §1 (NEW).]

5. Petition certification and notification. Within 7 business days of receiving petition forms under subsection 4, the municipal clerk shall determine whether the petition forms meet the criteria under subsection 4 and certify the validity of any signatures on the petition forms. If the municipal clerk finds that the number of valid signatures submitted under subsection 4 meets or exceeds the requirements under subsection 1, the clerk shall certify the petition and immediately send notification of the certification to the municipal officers, the initiator of the petition and the official subject to the recall. If the municipal clerk finds the number of valid signatures submitted under subsection 4 does not meet the requirements for a petition under subsection 1, the municipal clerk shall file the petition and the petition forms in the clerk's office and notify the initiator of the petition.

[PL 2011, c. 324, §1 (NEW).]

6. Scheduling recall election. Within 10 business days of certification of the petition under subsection 5, the municipal officers shall schedule a recall election to determine whether the official subject to the recall petition should be recalled. The election must be held no less than 45 days nor more than 75 days after certification of the petition under subsection 5 unless a regular municipal election is scheduled to be held within 90 days of the certification of the petition under subsection 5, in which case the recall election must be held on the date of the regular municipal election. If the municipal officers fail to schedule a recall election within 10 days of certification of the recall petition under subsection 5, the municipal clerk shall schedule the recall election pursuant to the date requirements of this subsection.

[PL 2011, c. 324, §1 (NEW).]

7. Ballots for recall election. If the official subject to the recall does not resign from office within 10 business days of certification of the recall petition under subsection 5, the ballots for the recall election under subsection 6 must be printed. A ballot for a recall election under this section must read:

"Do you authorize the recall of (name of official) from the position of (name of office)?

( ) Yes ( ) No"

[PL 2011, c. 324, §1 (NEW).]

8. Results of recall election. Within 2 business days of a recall election under subsection 6, the municipal clerk shall certify and record the election results and notify the municipal officers of those results. If a majority of voters vote to remove the official, the recall takes effect on the date the election results are recorded pursuant to this subsection.

[PL 2011, c. 324, §1 (NEW).]

9. Limitation of recall. An elected official may be the subject of a recall petition under this section only if the official is convicted of a crime, the conduct of which occurred during the official's term of office and the victim of which is the municipality.
[PL 2011, c. 324, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 324, §1 (NEW).

SUBCHAPTER 2

TOWN MEETINGS AND ELECTIONS

§2521. Call of town meeting

Each town meeting shall be called by a warrant. The warrant must be signed by a majority of the selectmen, except as follows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. First town meeting. The first town meeting shall be called in the manner provided in the act of incorporation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Majority of selectmen. If, for any reason, a majority of the selectmen do not remain in office, a majority of those remaining may call a town meeting.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Petition of 3 voters, if no selectmen. When a town, once organized, is without selectmen, a notary public may call a meeting on the written petition of any 3 voters.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Petition by voters, if selectmen refuse. If the selectmen unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2522. Petition for article in warrant

On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2523. Warrant

The warrant for calling any town meeting must meet the following requirements. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Time and place. It shall specify the time and place of the meeting.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Business to be acted upon. It shall state in distinct articles the business to be acted upon at the meeting. No other business may be acted upon.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Notification. It shall be directed to a town constable, or to any resident by name, ordering that person to notify all voters to assemble at the time and place appointed.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Attested copy posted. The person to whom it is directed shall post an attested copy in some conspicuous, public place in the town at least 7 days before the meeting, unless the town has adopted a different method of notification.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Return on warrant. The person who notifies the voters of the meeting shall make a return on the warrant stating the manner of notice and the time when it was given.

A. If an original town meeting warrant is lost or destroyed, the return may be made or amended on a copy of the original warrant. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2524. General town meeting provisions

The following provisions apply to all town meetings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Qualified voter. Every voter in the town may vote in the election of all town officials and in all town affairs.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Moderator elected and sworn. The clerk, or in the clerk's absence a selectman or constable, shall open the meeting by:

A. Calling for the election of a moderator by written ballot; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Receiving and counting the votes for moderator; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Swearing in the moderator. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Moderator presides. As soon as the moderator has been elected and sworn, the moderator shall preside over and supervise the voting at the meeting and may appoint a deputy moderator to assist the moderator. If the moderator is absent or is unable to carry out the duties, the clerk, or in the clerk's absence a selectman or constable, may call for the election of a deputy moderator to act in the absence of the moderator.

A. All persons shall be silent at the moderator's command. A person may not speak before that person is recognized by the moderator. A person who is not a voter in the town may speak at the meeting only with the consent of 2/3 of the voters present.

(1) If any person, after a command for order by the moderator, continues to act in a disorderly manner, the moderator may direct that person to leave the meeting. If the person refuses to leave, the moderator may have that person removed by a constable and confined until the meeting is adjourned. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When a vote declared by the moderator is immediately questioned by at least 7 voters, the moderator shall make it certain by polling the voters or by a method directed by the municipal legislative body. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The moderator shall serve until the meeting is adjourned. The moderator is subject to the same penalties for neglect of official duty as other town officials. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Votes recorded by clerk. The clerk shall accurately record the votes of the meeting.

A. If the clerk is absent, the moderator shall appoint and swear in a temporary clerk. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Written ballots. The clerk shall prepare the ballots. Ballots shall be of uniform size and color, and must be blank except that 2 squares with "yes" by one and "no" by the other may be printed on them.

The moderator shall ensure that each voter receives only one ballot for each vote taken.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Location of meetings. Town meetings may be held outside the corporate limits of the municipality if the municipal officers determine that there is no adequate facility for the meeting within the municipality. The proposed location must be:

A. Within an adjoining or nearby municipality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Not more than 25 miles from the corporate limits of the municipality holding the meetings; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Reasonably accessible to all voters of the town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2525. Annual meeting

1. Officials required to be elected. Each town shall hold an annual meeting at which the following town officials shall be elected by ballot:

A. Moderator; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Selectmen; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. School committee. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Other officials. A town, at a meeting held at least 90 days before the annual meeting, may designate other town officials to be elected by ballot. The election of officials at the last annual town meeting is deemed to be such a designation until the town acts otherwise at a meeting held at least 90 days before the annual meeting at which the election will be held.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 659 (AMD).]

3. Limitation. A town official may not be elected on a motion to cast one ballot.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 659 (AMD).

§2526. Choice and qualifications of town officials

Unless otherwise provided by charter, the following provisions apply to the choice and qualifications of town officials. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Manner of election. In a town with a population greater than 4,000, according to the last Federal Decennial Census, election shall be by plurality. Except as provided in section 2528, subsection 10, in a town with a population of 4,000 or under, election shall be by majority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Appointment in writing. The appointment of any town official or deputy must be in writing and shall be signed by the appointing party.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Qualifications. In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and a citizen of the United States.

A. In order to hold the office of selectman, a person must be a voter in the town in which that person is elected. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Selectmen and overseers. The following provisions apply to selectmen and overseers.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether 3, 5 or 7 will be elected to each board and their terms of office.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When others have not been elected, the selectmen shall serve as overseers of the poor. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A selectman may also serve as a member of the board of assessors. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. A town, in electing selectmen and overseers, may designate one of them as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. If the town fails to fix the compensation of these officials at its annual meeting, they shall be paid $10 each per day for every day actually and necessarily employed in the service of the town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Assessors. The following provisions apply to assessors.

A. A town may determine at a meeting of its legislative body held at least 90 days before the annual meeting whether a single assessor will be appointed under subparagraph (3) or a board of 3, 5 or 7 will be elected and the term of office of the assessor or assessors. In towns where the municipal legislative body is the town meeting, the determination is effective only if the total number of votes cast for and against the determination equals or exceeds 10% of the number of votes cast in the town at the last gubernatorial election.

(1) Once a determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

(3) When a town has chosen a single assessor under this paragraph, the selectmen shall appoint the assessor for a term not exceeding 5 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In addition to the method provided by paragraph A and notwithstanding the provision of any town charter to the contrary, the municipal officers of any town, or the municipal officers of 2 or more towns acting jointly, may enact an ordinance providing for a single assessor. The municipal officers shall appoint the assessor for a term not exceeding 5 years.

(1) Seven days' notice of the meeting at which the ordinance is to be proposed shall be given in the manner provided for town meetings.

(2) In towns where the municipal legislative body is the town meeting, the ordinance is effective immediately after the next regular town meeting if enacted at least 90 days before the meeting. The ordinance stands until revoked by the municipal legislative body or the municipal officers at a meeting held at least 90 days before the annual town meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. When a town has not elected a full board of assessors, the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman who is an assessor pursuant to this paragraph and Title 36, section 703 or any person who serves as both a selectman and a tax assessor may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to section 2602, subsection 2. A person elected to the State Legislature who resigns the position of assessor pursuant to this paragraph may continue to serve concurrently as selectman and member of the State Legislature. If a person who is serving in the State Legislature or in another office incompatible with the position of assessor resigns the position of assessor pursuant to this paragraph before that person has performed any duties as tax assessor, that person may not be deemed to have vacated the previously held position of State Legislator or other office that is incompatible with the office of assessor. [PL 2003, c. 234, §1 (AMD).]

D. A town, if it elects a board of assessors, may designate one member as chairman of the board.

(1) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. If the town fails to fix the compensation of assessors at its annual meeting, they shall be paid $10 each per day for every day actually and necessarily employed in the service of the town. [PL

1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. This subsection does not apply to any municipality which is incorporated into a primary assessing area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Notwithstanding any other law when a vacancy occurs on an elected board of assessors, the municipal officers shall fill that vacancy as provided in section 2602, subsection 2. [PL 1991, c. 270, §2 (NEW).]

[PL 2003, c. 234, §1 (AMD).]

6. Board of assessment review. The following provisions apply to a board of assessment review.

A. Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 90 days before the annual meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The board of assessment review consists of 3 members and 2 alternates appointed by the selectmen. The municipality, when adopting such a board, may fix the compensation of the members. Initially, one member must be appointed for one year, one member for 2 years and one member for 3 years, and one of the alternates must be appointed for one year and one alternate for 2 years. Thereafter, the term of each new member or alternate is 3 years. [PL 1991, c. 235 (AMD).]

C. Any town adopting a board of assessment review may discontinue the board by vote in the same manner and under the same conditions as in adopting the board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Municipalities may provide by ordinance for a board of assessment review consisting of 5 or 7 members and up to 3 alternates. The terms of office of members and alternates may not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members or alternates will expire in any single year. [PL 1991, c. 235 (AMD).]

E. Any town, by ordinance, may designate a board of appeals appointed under section 2691 as the board of assessment review. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. A board of assessment review shall annually elect from its membership a chairman and a secretary. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The procedure of a board of assessment review is governed by section 2691, subsection 3. [PL 2003, c. 510, Pt. A, §26 (AMD).]

H. This subsection does not apply to any municipality which is incorporated into a primary assessing area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 510, Pt. A, §26 (AMD).]

7. Road commissioners. The following provisions apply to road commissioners.

A. A town may determine at a meeting held at least 90 days before the annual meeting whether one or more road commissioners will be chosen and the term of office which may not exceed 3 years.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, one shall be chosen. If a town fails to fix the term, it is one year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A road commissioner appointed by the selectmen may be removed from office for cause by the selectmen. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The board of selectmen may act as a board of road commissioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Treasurers and tax collectors. Treasurers and tax collectors of towns may not simultaneously serve as municipal officers or as elected or appointed assessors until they have completed their duties and had a final settlement with the town.

A. The same person may serve as treasurer and tax collector of a municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2009, c. 57, §1 (AMD).]

9. Sworn in. Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath, including a notary public or dedimus justice.

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate, which must be returned to the clerk for filing. The certificate must state:

(1) The name of the official or deputy sworn;

(2) The official's or deputy's office;

(3) The name of the person who administered the oath; and

(4) The date when the oath was taken. [PL 2003, c. 510, Pt. A, §27 (RPR).]

B. The clerk shall be sworn to accurately record the votes of town meetings and to discharge faithfully all the other duties of that office, until another clerk is elected and sworn. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. After the town meeting, the clerk shall immediately issue a warrant directed to a constable containing the names of persons chosen for office who have not been sworn.

(1) The constable shall immediately summon the named persons to appear before the clerk within 7 days from the time of notice to take the oath of office.

(2) The constable shall make a return immediately to the clerk.

(3) The town shall pay the constable a reasonable compensation for these services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The clerk shall record the election or appointment of each official or deputy, including the clerk's own, and the other information specified in paragraph A. [PL 1987, c. 737, Pt. A, §2

(NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. A record by the clerk that a person was sworn for a stated town office is sufficient evidence that the person was legally sworn for the office. The entire oath need not be recorded. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 510, Pt. A, §27 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A17,C8,10, D3 (AMD). PL 1991, c. 235 (AMD). PL 1991, c. 270, §§1,2 (AMD). PL 2003, c. 234, §1 (AMD). PL 2003, c. 510, §§A26,27 (AMD). PL 2009, c. 57, §1 (AMD).

§2527. Alternative nomination procedure

When any town accepts this section at a meeting held at least 90 days before the annual meeting, the following provisions apply to the nomination of all town officials required by section 2525 to be elected by ballot, except for the moderator, and to the nomination of any other officials which the town designates by a separate article in the warrant at the time of acceptance. No change may be made thereafter in the nomination of town officials, except at a meeting held at least 90 days before the annual meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Nomination papers; certificate of political caucus. The nomination of candidates for any office shall be by nomination papers or certificate of political caucus as provided in section 2528, subsection 4.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Attestation and posting. The names of candidates nominated and the office for which they are nominated shall be attested by the clerk and posted at least 7 days before town meeting.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2528. Secret ballot

The following provisions govern a town's use of a secret ballot for the election of town officials or for municipal referenda elections. A vote by secret ballot takes precedence over a vote by any other means at the same meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Acceptance by town. When any town accepts this section at a meeting held at least 90 days before the annual meeting, the provisions of this section apply to the election of all town officials required by section 2525 to be elected by ballot, except the moderator, who shall be elected as provided in section 2524, subsection 2.

A. The provisions of this section relating to the nomination of town officials by political caucus apply only when a town separately accepts those provisions at a meeting held at least 90 days before the annual meeting. If any town accepts those provisions, they remain effective until the town votes otherwise. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A town may accept only the provisions of subsection 4, relating to the nomination of town officials, as provided in section 2527. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Designation, number and terms of officials. At the time of acceptance, the town shall determine, by a separate article in the warrant, which other officials are to be elected according to this section, and may determine the number and terms of selectmen, assessors and overseers according to section 2526.

A. After the determination under this subsection, a town may not change the designation, number or terms of town officials, except at a meeting held at least 90 days before the annual meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Voting place specified; polls. The warrant for a town meeting for the election of officials must specify the voting place, which must be in the same building or a building nearby where the meeting is to be held. The warrant for a town meeting for the election of officials that occurs at the same time as voting in federal, state or county elections, but not at the same time as a town meeting held for other purposes, may specify the same voting places as those used by the town for federal, state or county elections. The warrant must specify the time of opening and closing the polls, which must be kept open at least 4 consecutive hours.

A. In the warrant for a town meeting under this section, the municipal officers may designate the date of the election and designate another date within 14 days of the date set for elections as the time for considering the other articles of business in the warrant. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 569, §1 (AMD).]

4. Nomination papers; caucuses. The nomination for any office shall be made by nomination papers or by political caucus as provided in this subsection.

A. The municipal clerk shall make nomination papers available to prospective candidates during the 40 days before the filing deadline. Before issuing nomination papers, the clerk must complete each sheet by writing in the name of the candidate and the title and term of office being sought.

(1) Nomination papers must be signed by the following number of voters based on the population of the town according to the last Federal Decennial Census of the United States:

(a) Not less than 3 nor more than 10 in towns with a population of 200 or less;

(b) Not less than 10 nor more than 25 in towns with a population of 201 to 500; and

(c) Not less than 25 nor more than 100 in towns with a population of more than 500.

(2) Each voter who signs a nomination paper shall add the voter's residence with the street and number, if any. The voter may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled. [PL 1995, c. 102, §1 (AMD).]

B. At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom

the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election. [PL 1991, c. 83, §1 (AMD).]

C. Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the 60th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:

(1) To accept the nomination if nominated;

(2) Not to withdraw; and

(3) If elected at the municipal election, to qualify as such municipal officer.

When these papers and certificates are filed, the clerk shall make them available to public inspection under proper protective regulations. The clerk shall keep them in the office for 6 months. [PL 2017, c. 248, §9 (AMD).]

D. A nomination paper or a certificate of political caucus nomination that complies with this section is valid unless a written objection to it is made to the municipal officers by the 58th day prior to election day.

(1) If an objection is made, the clerk shall immediately notify the candidate affected by it.

(2) The municipal officers shall determine objections arising in the case of nominations. Their decision is final. [PL 2017, c. 475, Pt. C, §9 (AMD).]

E. Notwithstanding this subsection, when the municipal officers determine to fill a vacancy under section 2602, which must be filled by election, the municipal officers may designate a shorter time period for the availability of nomination papers, but not less than 10 days before the filing deadline, and may designate a shorter time period for the final date for filing nomination papers, but not less than the 14th day before election day. Notice of the designation shall be posted in the same place or places as town meeting warrants are posted and local representatives of the media shall be notified of the designation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2017, c. 475, Pt. C, §9 (AMD).]

5. Referendum questions. By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4.

The municipal officers shall hold a public hearing on the subject of the article at least 10 days before the day for voting on the article. At least 7 days before the date set for the hearing, the municipal officers shall give notice of the public hearing by having a copy of the proposed article, together with the time and place of hearing, posted in the same manner required for posting a warrant for a town meeting under section 2523. The municipal officers shall make a return on the original notice stating the manner of notice and the time it was given.

A. The requirement for public hearing is not a prerequisite to the valid issuance of any bond, note or other obligation of a municipality authorized to borrow money by vote under any such particular article. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article, when printed in the warrant and on the ballot, must be accompanied by a recommendation of the municipal officers.

(1) If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed in addition to those of the municipal officers.

(2) If the action affects the school budget, a recommendation by the school board shall be printed in addition to those of the municipal officers and the budget committee, if any. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. If the warrant for a town meeting contains only articles for the election of the moderator and one or more referendum questions to be voted on by secret ballot, the municipal officers may specify the same voting places as those used by the town for federal, state or county elections. [PL 2003, c. 569, §2 (NEW).]

[PL 2003, c. 569, §2 (AMD).]

6. Ballots, specimen ballots and instruction cards. The clerk shall prepare ballots, specimen ballots and instruction cards according to the following provisions.

A. The ballot shall contain the names of properly nominated candidates arranged under the proper office designation in alphabetical order by last name. It may contain no other names. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election. [PL 1991, c. 83, §2 (AMD).]

C. Any question or questions required by law to be submitted to a vote must be printed either below the list of candidates or on a separate ballot from the ballot listing candidates. Notwithstanding the provision of Title 21-A, section 906, subsection 7 requiring sequential numbering of ballot questions, the questions may be listed on the ballot using sequential capital letters of the alphabet instead of sequential numbers in accordance with section 2501, subsection 4. All other provisions of Title 21-A, section 906, subsection 7 apply. If a separate ballot is used, this ballot must be a different color than the ballot listing candidates. [PL 2019, c. 58, §2 (AMD).]

D. There must be a place on the ballot for the voter to designate the voter's choice. [PL 2019, c. 636, §20 (RPR).]

E. Words of explanation such as "Vote for one" and "Vote yes or no" may be printed on the ballot. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Ballots must be uniform in size. On the ballot must appear "Official Ballot for the Town of ....," the date of election and a facsimile of the signature of the clerk. [PL 1993, c. 608, §7 (AMD).]

G. A sufficient number of ballots shall be printed, photocopied or otherwise mechanically reproduced and furnished, and a record of the number shall be kept by the clerk. The printed ballots shall be packaged in convenient blocks so that they may be removed separately. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Ten or more specimen ballots printed on paper of a distinctive color without the endorsement of the clerk shall be provided. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Instruction cards containing the substance of Title 21-A, sections 671 to 674, 681, 682, 692 and 693, to guide voters in obtaining and marking ballots and to inform them of penalties for improper conduct shall be printed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. The ballots and specimen ballots shall be packed in sealed packages with marks on the outside specifying the number of each enclosed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

K. When voting machines are used, the clerk shall prepare and furnish ballot labels that comply, as nearly as practicable, with the provisions of this section which apply to ballots. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 636, §20 (AMD).]

6-A. Candidate withdrawal; new ballots. The following provisions govern the withdrawal of a candidate from an elective race.

A. A candidate may withdraw from an elective race by notifying the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal at least 60 days before the election. This notice must be signed by the candidate and must be notarized. [PL 2017, c. 475, Pt. C, §10 (AMD).]

B. Within the 60-day period before an election, the municipal clerk may allow a candidate to withdraw from an elective race. A candidate who requests to withdraw within the 60-day period before an election shall notify the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate and must be notarized. [PL 2017, c. 475, Pt. C, §10 (AMD).]

C. The municipal clerk shall ensure that new ballots are produced, if necessary, to reflect the withdrawal of a candidate from an elective race. [PL 1993, c. 608, §8 (NEW).]

[PL 2017, c. 475, Pt. C, §10 (AMD).]

6-B. Inspection of ballots in an election. Upon receipt of a package or box containing absentee ballots for an election, the municipal clerk may open the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk may then proceed to issue absentee ballots in response to pending requests. Upon receipt of a package or box containing regular ballots for an election, the clerk may open, in the presence of one or more witnesses, the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. Ballots to be used for testing electronic tabulating devices may be removed at this time and immediately marked with the word "TEST" across the front side of the ballot in black or blue indelible ink. The clerk shall keep a record of the number of ballots used for testing purposes and seal the record with the test ballots in a container labeled "TEST BALLOTS" at the conclusion of the testing. The clerk shall then reseal the package or box of regular ballots and secure the package or box of ballots until election day, when it is delivered to the warden at the polling place.

[PL 2007, c. 19, §1 (NEW).]

7. Specimen ballot posted. At least 4 days before the election, the clerk shall have posted in one or more conspicuous, public places a specimen ballot or a list, substantially in the form of a ballot, containing the name and office designation of each candidate.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Ballot clerks. Before the polls are opened, the municipal officers shall appoint the necessary number of ballot clerks as provided in Title 21-A, section 503-A. When there are vacancies after the polls are opened, the moderator shall appoint replacement clerks. The ballot clerks must be sworn before assuming their duties.

A. On election day, before the polls are opened, the clerk shall deliver the ballots to the ballot clerks and shall post an instruction card at each voting compartment and at least 3 instruction cards and 5 specimen ballots in the voting room outside the guardrail enclosure. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The ballot clerks shall give a receipt to the clerk for the ballots received by them. The clerk shall keep the receipt in the clerk's office for 6 months. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Ballots may not be delivered to the voters until the moderator has been elected. The moderator may appoint a qualified person to act as temporary moderator during a temporary absence from the polling place. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The municipal officers shall prepare a duplicate incoming voting list for the use of the ballot clerks. The law pertaining to incoming voting lists applies equally to duplicate incoming voting lists. [PL 2019, c. 64, §4 (AMD).]

[PL 2019, c. 64, §4 (AMD).]

9. After votes counted, ballots delivered to clerk. After the ballot clerks have counted and tabulated the votes cast, the moderator shall deliver the ballots to the clerk who shall seal them in a suitable package and keep them in the clerk's office for 2 months.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Election by plurality vote; tie vote. Election must be by plurality vote. In the case of a tie vote, the meeting must be adjourned to a day certain, when ballots are again cast for the candidates tied for the office in question, unless all but one tied candidate withdraw from a subsequent election by delivering written notice of withdrawal signed by the candidate and notarized to the municipal offices within the 7-day period following the election. After the 7-day period has expired, the municipal officers shall call a run-off election between the remaining candidates by posting a warrant in the manner required for calling a town meeting. If only one candidate remains, that candidate is declared the winner and sworn into office.

If the meeting is adjourned sine die before a tie vote is resolved or the tie vote is discovered after the meeting adjourns sine die and more than one candidate remains, a new meeting must be called to conduct a run-off election by the method described in this subsection.

[PL 1997, c. 733, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A18-20,C8, C10 (AMD). PL 1991, c. 83, §§1,2 (AMD). PL 1991, c. 323 (AMD). PL 1993, c. 608, §§6-8 (AMD). PL 1995, c. 13, §1 (AMD). PL 1995, c. 102, §1 (AMD). PL 1997, c. 733, §1 (AMD). PL 2003, c. 569, §§1,2 (AMD). PL 2007, c. 19, §1 (AMD). PL 2017, c. 248, §9 (AMD). PL 2017, c. 475, Pt. C, §§9, 10 (AMD). PL 2019, c. 58, §2 (AMD). PL 2019, c. 64, §4 (AMD). PL 2019, c. 636, §20 (AMD).

§2529. Absentee ballots

If a town has accepted section 2528, absentee ballots may be cast at all regular and special elections to which section 2528 applies, including elections for town meeting members where the representative town meeting form of government is used. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Procedure. The absentee voting procedure outlined in Title 21-A shall be used, except that the clerk shall perform the duties of the Secretary of State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Absentee ballot. The absentee ballot requirements of Title 21-A, section 752 apply.
[PL 1993, c. 608, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 608, §9 (AMD).

§2530. Ballot inspection

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 608, §10 (RP).

§2530-A. Candidate's inspection of ballots and incoming voting lists

This section provides for the preliminary inspection of ballots and incoming voting lists cast in any election for municipal office. Inspection procedures for other offices do not apply to elections for municipal office. [PL 2011, c. 255, §3 (AMD).]

If a candidate other than a declared winner in an election applies in writing to the municipal clerk within 5 days after the result of a city election or an election under section 2528 has been declared, the municipal clerk shall permit the candidate or the candidate's agent, after payment of any fee required under subsection 9, to inspect the ballots and incoming voting lists under proper protective regulations for the purpose of determining whether or not to request a recount under section 2531-B. The final day of the 5-day period ends at the close of regular business hours in the office of the municipal clerk. The candidate requesting the inspection may request a random or complete inspection of the ballots and incoming voting lists. [PL 2011, c. 255, §3 (AMD).]

Any inspection of ballots and incoming voting lists is subject to the following provisions. [PL 1993, c. 608, §11 (NEW).]

1. Notice. The inspection may be permitted only after written notice by the municipal clerk to:

A. The ward officers who signed the election returns in a city or the moderator in a town; and [PL 1993, c. 608, §11 (NEW).]

B. All candidates for the office specified in the application. [PL 1993, c. 608, §11 (NEW).]

This notice must state the time and place of the inspection and provide the persons listed in paragraphs A and B with a reasonable opportunity to be present and heard in person or to be represented by counsel. [PL 1993, c. 608, §11 (NEW).]

2. When deposit is required.

[PL 2011, c. 255, §4 (RP).]

3. Amount of deposit.

[PL 2011, c. 255, §4 (RP).]

4. Forfeiture or refund of deposit.
[PL 2011, c. 255, §4 (RP).]

5. Time of inspection. The inspection must be held within 5 days after the municipal clerk receives the written application requesting an inspection.
[PL 1993, c. 608, §11 (NEW).]

6. Packages resealed. After each inspection, the municipal clerk shall reseal the packages of ballots and the incoming voting lists and shall note the fact and date of inspection on them.
[PL 1993, c. 608, §11 (NEW).]

7. Candidate defined. As used in this section and section 2531-A, "candidate" means any person who has received at least one vote for the municipal office in question.
[PL 1993, c. 608, §11 (NEW).]

8. Calculation of time. The periods established in this section must be calculated according to the Maine Rules of Civil Procedure, Rule 6(a). The final day of any period calculated pursuant to this section ends at the close of regular business hours in the office of the municipal clerk. Actions required to be taken by the end of a day certain that are taken after the close of regular business hours in the office of the municipal clerk on the day certain are not timely.
[PL 1993, c. 608, §11 (NEW).]

9. Municipal clerk may assess fee. The municipal clerk may assess a fee for the inspection of ballots as provided in this section. The fee may not exceed the actual costs to administer the inspection of ballots conducted in accordance with this section.
[PL 2011, c. 255, §5 (NEW).]

SECTION HISTORY

PL 1993, c. 608, §11 (NEW). PL 2011, c. 255, §§3-5 (AMD).

§2531. Recount hearing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 608, §12 (RP).

§2531-A. Recount hearing

(REPEALED)

SECTION HISTORY

PL 1993, c. 608, §13 (NEW). PL 1999, c. 712, §1 (AMD). PL 2011, c. 255, §6 (RP).

§2531-B. Recount of an election for office

This section governs all recounts in any election for municipal office. [PL 2019, c. 288, §1 (NEW).]

1. When deposit is required.

[PL 2019, c. 288, §1 (RP).]

2. Amount of deposit.
[PL 2019, c. 288, §1 (RP).]

3. Forfeiture or refund of deposit.
[PL 2019, c. 288, §1 (RP).]

4. Recount request and procedure. A candidate, including a write-in candidate, other than the declared winner in an election may apply to the municipal clerk in writing for a recount. Written recount requests must be received by the clerk within 5 business days after the day of the contested election or within 5 business days after an inspection pursuant to section 2530-A in order to be valid.
[PL 2019, c. 288, §1 (NEW).]

5. Public proceeding. A recount is a public proceeding open to public attendance, subject to reasonable restrictions necessary to protect recount integrity or resulting from space limitations.
[PL 2019, c. 288, §1 (NEW).]

6. Recount security. The municipal clerk shall maintain control over the ballots and other recount materials. No recount personnel other than the clerk may have access to the areas where ballots are stored unless accompanied by the clerk or the clerk's designee. A person who causes a disruption of the recount process may be removed from the area at the discretion of the clerk.
[PL 2019, c. 288, §1 (NEW).]

7. Amount of deposit. A candidate requesting a recount shall pay a deposit to the municipal clerk when the recount is requested in an amount determined by the municipal clerk, which must be at least 50% of the reasonable estimate of the cost to the municipality performing the recount.
[PL 2019, c. 288, §1 (NEW).]

8. Deposit not required. Notwithstanding subsection 7, a deposit is not required for a recount if the percentage difference of the total votes of the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less; [PL 2019, c. 288, §1 (NEW).]

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or [PL 2019, c. 288, §1 (NEW).]

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over. [PL 2019, c. 288, §1 (NEW).]

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.
[PL 2019, c. 288, §1 (NEW).]

9. Forfeiture or refund of deposit. If a recount changes the result of an election, a deposit under subsection 7 must be returned to the candidate who paid the deposit. If the recount does not change the result of the election, the municipality shall calculate the actual cost to the municipality of performing the recount. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate who paid the deposit. If the actual cost was greater than the deposit, the candidate who requested the recount shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 8 may not be charged for the recount regardless of whether the recount changes the result of the election.
[PL 2019, c. 288, §1 (NEW).]

10. Date of recount and notice. When a recount request has been filed pursuant to subsection 4, along with a deposit if a deposit is required pursuant to subsection 7, the municipal clerk immediately shall set a date for the recount, which must be held as soon as reasonably possible at a date and time that affords the candidate who requested the recount a reasonable opportunity to be present. The municipal clerk shall notify the public, the municipal officers, the candidate who filed the recount request and all other candidates on that election ballot of the recount date and location. Notice must be posted pursuant to Title 1, section 406.
[PL 2019, c. 288, §1 (NEW).]

11. Procedure at recount. A recount in an election for municipal office must be conducted according to the procedures in this subsection unless the municipal legislative body adopts the recount procedures of Title 21-A, section 737-A and the rules adopted pursuant to that section, except that Title 21-A, section 737-A, subsections 1, 5 and 12 and the duties of the State Police do not apply.

A. The municipal clerk shall publicly explain the recount procedure at the start of the recount and shall supervise the sorting and hand counting of the votes in public with assistance from counters appointed by the clerk. [PL 2019, c. 288, §1 (NEW).]

B. A candidate may provide counters to conduct the recount under the supervision of the municipal clerk. If an insufficient number of counters is provided, the clerk shall supply counters. Municipal officers and candidates on that election ballot may not serve as counters. [PL 2019, c. 288, §1 (NEW).]

C. The municipal clerk and counters shall follow all applicable laws and the rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6. [PL 2019, c. 288, §1 (NEW).]

D. If any ballots are disputed as to voter intent, the candidates may resolve the dispute by consensus in accordance with rules for determining voter intent adopted by the Secretary of State pursuant to Title 21-A, section 696, subsection 6. If consensus cannot be reached, those disputed ballots must be set aside. If the number of disputed ballots potentially affects the outcome of the recount, the municipal clerk shall forward the disputed ballots to the clerk of the nearest Superior Court in the county in which the election was held. [PL 2019, c. 288, §1 (NEW).]

E. Upon written request, the municipal clerk shall make the incoming voting list and absentee ballot materials, along with all records required by law to be kept in connection with the election, available for inspection, unless those materials have been requested as part of a state recount. [PL 2019, c. 288, §1 (NEW).]

F. After the recount, the municipal clerk shall reseal the package of ballots and incoming voting list and shall note on the package the fact that the recount was held and the date of the recount. [PL 2019, c. 288, §1 (NEW).]

G. In order to withdraw from a recount, a candidate must notify the municipal clerk of the intent to withdraw and the reason for withdrawal. The notice must be signed by the candidate, notarized and delivered to the municipal clerk prior to or during the scheduled recount. In the event of a withdrawal, the final election day tabulation is considered the final result. [PL 2019, c. 288, §1 (NEW).]

[PL 2019, c. 558, §1 (AMD).]

12. Results of recount. Within 24 hours after the results of the recount are determined, the municipal clerk shall prepare, sign and issue a final recount tabulation.

[PL 2019, c. 288, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 255, §7 (NEW). PL 2017, c. 191, §1 (AMD). PL 2019, c. 288, §1 (RPR). PL 2019, c. 558, §1 (AMD).

§2532. Referendum recount procedure

In the case of a referendum, a recount must be granted upon written application of 10% or 100, whichever is less, of the registered voters in the municipality. The application must designate a person to be the official representative of the registered voters requesting the recount including the person's legal name, mailing address, residence address and telephone number. An official representative for the registered voters opposing the recount may be established by submission of an affidavit signed by 10 registered voters of the municipality. The time limits, rules and all other matters applying to

candidates under section 2531-B apply equally to a referendum recount, except that provisions in section 2531-B applicable to the candidate requesting the recount and candidates not requesting the recount apply, for purposes of this section, to the official representative of the referendum recount and the official representative, if any, of the voters opposed to the recount, respectively. [PL 2019, c. 288, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 608, §14 (AMD). PL 2011, c. 255, §8 (AMD). PL 2017, c. 191, §2 (AMD). PL 2019, c. 288, §2 (AMD).

§2533. Title to municipal office

Within 30 days after election day, a person who claims to have been elected to any municipal office may proceed against another who claims title to the office by the following procedure. [PL 1993, c. 608, §15 (AMD).]

1. Procedure. The person must bring a complaint in the Superior Court alleging the facts upon which the person relies in maintaining the action. The action must be brought in the county in which the defendant resides. The court shall hear and decide the case as soon as reasonably possible.
[PL 1993, c. 473, §42 (NEW); PL 1993, c. 473, §46 (AFF).]

2. Appeal procedure. The party against whom the judgment is rendered may appeal to the Supreme Judicial Court within 10 days after entry of the judgment. The appellant must file the required number of copies of the record with the clerk of courts within 20 days after filing the notice of appeal. Within 30 days after the notice of appeal is filed, the parties must file briefs with the clerk of courts. As soon as the records and briefs have been filed, the court shall immediately consider the case and shall issue its decision as soon as reasonably possible. Final judgment must be entered accordingly.
[PL 1993, c. 473, §42 (NEW); PL 1993, c. 473, §46 (AFF).]

3. Court to issue order. As soon as final judgment has been rendered, the Superior Court, on request of the prevailing party, shall issue an order to the party unlawfully claiming or holding the office, commanding that party to immediately surrender it to the person who has been adjudged lawfully entitled to it, together with all the records and property connected with it. The prevailing party may assume the duties of the office as soon as the term begins.
[PL 1993, c. 473, §42 (NEW); PL 1993, c. 473, §46 (AFF).]

4. Costs. The court shall allow costs to the prevailing party as the court determines reasonable and just.
[PL 1993, c. 473, §42 (NEW); PL 1993, c. 473, §46 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 473, §42 (AMD). PL 1993, c. 473, §46 (AFF). PL 1993, c. 608, §15 (AMD).

SUBCHAPTER 3

CITY ELECTIONS

§2551. Warrant or notice for city election

Except as otherwise required by municipal charter, each city election must be called by a warrant or by a notice of election posted in compliance with Title 21-A, section 621-A. The warrant must meet

the requirements listed in Title 21-A, section 622-A. [PL 2005, c. 59, §1 (RPR); PL 2005, c. 59, §2 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2005, c. 59, §1 (RPR). PL 2005, c. 59, §2 (AFF).

§2552. Designation of officials

1. Assessors and assistant assessors. The following provisions apply to assessors and their assistants.

A. Assessors and their assistants shall be chosen annually on the 2nd Monday of March to serve for one year and until others are chosen and qualified in their places, unless the city charter provides otherwise. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In addition to the assistant assessors chosen under a city charter, the municipal officers may authorize the assessors to appoint any necessary assistants to serve during the municipal year in which they are appointed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Notwithstanding the provisions of any city charter to the contrary, the city council, by ordinance, may provide for a single assessor whose powers and duties are the same as for towns, and who is appointed for a term not exceeding 5 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Board of assessment review. The following provisions apply to a board of assessment review.

A. Any city choosing a single assessor may adopt a board of assessment review by vote of the city council at least 90 days before the annual city election. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §4 (AMD).]

B. The board of assessment review shall consist of 3 members appointed by the city council. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The city council, when adopting a board of assessment review, may fix the compensation of the board's members. One member shall be appointed for one year, one member for 2 years and one member for 3 years. Thereafter, the term of each new member is 3 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Any city adopting a board of assessment review may discontinue the board by vote of the city council at least 90 days before the annual city election, in which case the board ceases to exist at the end of the municipal year. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §5 (AMD).]

E. Cities with a population of 5,000 or more may provide by ordinance for a board of assessment review consisting of 5 or 7 members. The terms of office of members must not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members will expire in any single year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. This subsection does not apply in any city which is incorporated into a primary assessing area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §§4, 5 (AMD).]

3. Constable. When a vacancy occurs in the office of constable, the municipal officers may appoint a qualified person to fill the vacancy for the remainder of the term.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Warden and clerk. A warden and clerk for each ward shall be elected by secret ballot at the regular election of municipal officers.

A. They shall assume the duties of office on the Monday following election. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. They shall hold office for one year and until others are chosen and qualified in their places. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Officials elected by aldermen and common council. In the election of any official by the board of aldermen or jointly by the aldermen and common council in which the mayor has a right to give a deciding vote, if the candidates have an equal number of votes, the mayor shall determine which of them is elected.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Officials appointed by the municipal officers. Whenever appointments to office are made by the municipal officers, they shall be made by the mayor with the consent of the aldermen and may be removed by the mayor.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10,D4,5 (AMD).

§2553. Nomination to city office by petition

A person may be nominated to any city office by nomination petition following the procedure prescribed by Title 21-A, chapter 5, subchapter II. A person seeking nomination under this section may use a political designation only if permitted by the city charter. The petition and consent must be filed with the clerk at least 14 days before election day. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2554. Ballots, specimen ballots and instruction posters

Except as otherwise provided by its charter, the ballots, specimen ballots and instruction posters for use in a city election are governed by the following provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Prepared by clerk. The clerk shall prepare, at the city's expense, the ballots, specimen ballots and instruction posters for use in a city election a reasonable time and as nearly as practicable before each election, in accordance with section 2528, subsection 6.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1-A. Inspection of ballots in an election. The municipal clerk may inspect ballots in accordance with section 2528, subsection 6-B.
[PL 2007, c. 19, §2 (NEW).]

2. Write-in votes. In any city election, a voter may write in the name and municipality of residence of any person for whom the voter desires to vote in the blank space provided at the end of the list of candidates for office. A sticker may not be used to vote for a write-in candidate in any city election other than a primary election.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §21 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Specimen ballots and instruction posters. At least 4 days before election day, the clerk shall post a specimen ballot in one or more conspicuous, public places in each ward. Before the election, the clerk shall publish a composite specimen ballot containing the names of all the nominees in a newspaper having general circulation in the city. On election day, when the polls are opened, the clerk shall post an instruction poster in each voting booth, and 3 instruction posters and 5 specimen ballots in the voting room outside the guardrail enclosure.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A21,C8,C10 (AMD). PL 2007, c. 19, §2 (AMD).

§2555. Election by plurality

In a city election, unless otherwise provided by municipal charter, the person who receives a plurality of the votes cast for election to any office is elected to that office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2556. Recount; challenge for office

Sections 2531-B to 2533 apply in a city and govern recounts of elections for office, referenda and the procedure for challenging a person who claims title to an office. [PL 2011, c. 255, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 608, §16 (AMD). PL 2011, c. 255, §9 (AMD).

CHAPTER 123

MUNICIPAL OFFICIALS

SUBCHAPTER 1

GENERAL PROVISIONS

§2601. Appointment and term of officials; generally

1. Appointment of officials and employees. Except where specifically provided by law, charter or ordinance, the municipal officers shall appoint all municipal officials and employees required by general law, charter or ordinance and may remove those officials and employees for cause, after notice and hearing.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Term of officials. Unless otherwise specified, the term of all municipal officials is one year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2601-A. Appointment of code enforcement officers

Municipal officers may appoint code enforcement officers trained and certified in accordance with section 4451 to serve for fixed terms of one year or more, and may remove those code enforcement officers only for cause after notice and hearing. Compensation for code enforcement officers is determined by the municipal officers and paid by the respective municipalities. [PL 1993, c. 222, §1 (NEW).]

Code enforcement officers need not be residents of the municipality for which they are appointed. [PL 1993, c. 222, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 222, §1 (NEW).

§2602. Vacancy in municipal office

1. When vacancy exists. A vacancy in a municipal office may occur by the following means:

A. Nonacceptance; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Resignation; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Death; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Removal from the municipality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Permanent disability or incompetency; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Failure to qualify for the office within 10 days after written demand by the municipal officers; [PL 2011, c. 324, §2 (AMD).]

G. Failure of the municipality to elect a person to office; or [PL 2011, c. 324, §3 (AMD).]

H. Recall pursuant to section 2505. [PL 2011, c. 324, §4 (NEW).]

[PL 2011, c. 324, §§2-4 (AMD).]

2. Vacancy in office other than selectman or school committee. When there is a vacancy in a town office other than that of selectman or school committee, the selectmen may appoint a qualified person to fill the vacancy.

[PL 1991, c. 270, §3 (AMD).]

3. Vacancy in office of selectman. When there is a vacancy in the office of selectman, the selectmen may call a town meeting to elect a qualified person to fill the vacancy.

[PL 1991, c. 270, §3 (AMD).]

4. Vacancy in school committee. A vacancy in a municipality's school committee shall be filled as provided in Title 20-A, section 2305, subsection 4.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Person appointed qualifies. The person appointed to fill a vacant office must qualify in the same manner as one chosen in the regular course of municipal activity.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Home rule authority. Under its home rule authority, a municipality may apply different provisions governing the existence of vacancies in municipal offices and the method of filling those vacancies as follows:

A. Any change in the provisions of this section relating to a school committee must be accomplished by charter; and [PL 1993, c. 369, §1 (AMD).]

B. Any change in the provisions of this section relating to any other municipal office may be accomplished by charter or ordinance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1993, c. 369, §1 (AMD).]

7. Authority to act. Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed municipal or quasi-municipal body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the municipal or quasi-municipal body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

[PL 2007, c. 396, §3 (NEW); PL 2007, c. 396, §4 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 270, §3 (AMD). PL 1993, c. 369, §1 (AMD). PL 2007, c. 396, §3 (AMD). PL 2007, c. 396, §4 (AFF). PL 2011, c. 324, §§2-4 (AMD).

§2603. Deputy officials

The clerk, treasurer and collector of a municipality may each appoint in writing one or more qualified persons as deputies. [PL 1995, c. 57, §1 (AMD).]

1. Sworn and oath recorded. Before assuming the duties of office, the deputy must be sworn and the fact of the oath recorded as provided in section 2526, subsection 9.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Term; duties. The deputy serves at the will of the appointing official. The deputy may perform any of the duties of office prescribed by the appointing official.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bond liability. The appointing official and the surety on the official's bond are liable for all acts and omissions of the official's deputy.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Absence. If the clerk, treasurer or tax collector fails to do so, the municipal officers may appoint a deputy to act during any absence.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 57, §1 (AMD).

§2604. Definitions

As used in section 2605, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Body. "Body" means the governing unit of a municipality or county, and any subunit of government of a municipality or county, including, but not limited to, agencies, authorities, boards, commissions and offices.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Official. "Official" means any elected or appointed member of a municipal or county government or of a quasi-municipal corporation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Quasi-municipal corporation. "Quasi-municipal corporation" means any governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public services but which is not a general purpose governmental unit. This definition includes, but is not limited to, utility districts under the jurisdiction of the Public Utilities Commission and school administrative districts.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2605. Conflicts of interest

Certain proceedings of municipalities, counties and quasi-municipal corporations and their officials are voidable and actionable according to the following provisions. [PL 1987, c. 737, Pt. A, §2

(NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Voting. The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Contracts. A contract, other than a contract obtained through properly advertised bid procedures, made by a municipality, county or quasi-municipal corporation during the term of an official of a body of the municipality, county or quasi-municipal corporation involved in the negotiation or award of the contract who has a direct or an indirect pecuniary interest in it is voidable, except as provided in subsection 4.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Restrain proceedings. The Superior Court may restrain proceedings in violation of this section on the application of at least 10 residents of the municipality, county or area served by the quasi-municipal corporation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Former municipal and county officials. This subsection applies to former municipal and county officials.

A. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body for one year after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was completed at least one year before the termination of that official's employment or term of office. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body at any time after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was pending within one year of the termination of the municipal or county official's employment or term of office. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. This subsection may not be construed to prohibit former municipal or county officials from doing personal business with the municipality or county. This subsection does not limit the application of Title 17-A, chapter 25. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

For the purpose of this subsection, a municipal or county government body includes an agency, board, commission, authority, committee, legislative body, department or other governmental entity of a municipality or county.
[PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.
[PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.
[PL 1989, c. 561, §19 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A22,C8,C10 (AMD). PL 1989, c. 561, §19 (AMD).

§2606. Prohibited appointments

No municipal officer, during the term for which that officer has been elected and for one year thereafter, may be appointed to any civil office of profit or employment position of the municipality, which was created or the compensation of which was increased by the action of the municipal officers during the officer's term. This section shall not be construed to prohibit actions allowed or required under state or federal law, municipal ordinance or municipal charter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2607. Neglect of official duty

A municipal official who neglects or refuses to perform a duty of office commits a civil violation for which a fine of not more than $100 for each offense may be adjudged, when no other penalty is provided. The fine shall be recovered on complaint to the use of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

TOWN MANAGER PLAN

§2631. Town manager plan

1. Applicable laws. The form of government provided in this subchapter shall be known as the "town manager plan" and, together with general law not inconsistent, shall govern any town in which the voters have adopted this plan at a meeting held at least 90 days before the annual meeting.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Government. The government of each town under this subchapter shall consist of a town meeting, an elected board of selectmen, an elected school committee, an appointed town manager and any other officials and employees that may be appointed under this subchapter, general law or ordinance. Other town officials may be elected by ballot, including, but not limited to, moderator, assessors, overseers of the poor, clerk and treasurer. The election of officials at the last annual town meeting shall require that those town offices continue to be filled by election until the town designates otherwise.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Duration. Once adopted, the town manager plan remains in effect until revoked at a town meeting held at least 90 days before the annual meeting unless the voters of the town adopt a charter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2632. Qualifications of town manager

1. Selection by board; professional qualification. The selectmen shall choose the town manager solely on the basis of executive and administrative qualifications with special reference to actual experience in, or knowledge of, the duties of office under this subchapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Residency. The town manager need not be a resident of the town or State when appointed, but, while in office, may reside outside the town or State only with the approval of the board of selectmen.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Prohibited offices. A town manager may not serve as moderator, selectman, assessor or member of the school committee.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2633. Term, compensation, removal, suspension

1. Term. The town manager shall hold office for an indefinite term unless otherwise specified by contract.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Compensation. The selectmen shall determine the compensation of the town manager.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Removal, suspension. The selectmen may remove or suspend the town manager for cause in accordance with the following procedures.

A. The selectmen shall file a written preliminary resolution with the town clerk stating the specific reasons for the proposed removal. A copy of that resolution shall be delivered to the manager within 10 days of filing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 20 days of receiving the resolution, the manager may reply in writing and request a public hearing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Upon request for a public hearing, the selectmen shall hold one at least 10 days but not more than 30 days after the request is filed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. After the public hearing or at the expiration of the time permitted the manager to request the public hearing, if no such request is made, the selectmen may adopt or reject the resolution of removal. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The selectmen may suspend the manager from duty in the preliminary resolution, but the manager's salary may not be affected until the final resolution of removal has been adopted. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2634. Absence or disability of town manager

The town manager may designate a qualified administrative official of the town to perform the manager's duties during a temporary absence or disability, subject to confirmation by the selectmen. If

the town manager does not make this designation, the selectmen may appoint a town official to perform the manager's duties during the absence or disability and until the manager returns or the disability ceases. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2635. Board of selectmen to act as a body; administrative service to be performed through town manager; committees

It is the intention of this subchapter that the board of selectmen as a body shall exercise all administrative and executive powers of the town except as provided in this subchapter. The board of selectmen shall deal with the administrative services solely through the town manager and shall not give orders to any subordinates of the manager, either publicly or privately. This section does not prevent the board of selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2636. Powers and duties of town manager

The town manager: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Executive and administrative officer. Is the chief executive and administrative official of the town;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Administer offices. Is responsible to the selectmen for the administration of all departments and offices over which the selectmen have control;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Execute laws and ordinances. Shall execute all laws and ordinances of the town;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Department head. Shall serve in any office as the head of any department under the control of the selectmen when directed by the selectmen;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Appoint department heads. Shall appoint, subject to confirmation by the selectmen, supervise and control the heads of departments under the control of the selectmen when the department is not headed by the town manager under subsection 4;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Appoint town officials. Unless otherwise provided by town ordinance, shall appoint, supervise and control all town officials whom the municipal officers are required by law to appoint, except

members of boards, commissions, committees and single assessors; and appoint, supervise and control all other officials, subordinates and assistants, except that the town manager may delegate this authority to a department head and report all appointments to the board of selectmen;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Purchasing agent. Shall act as purchasing agent for all departments, except the school department, provided that the town or the selectmen may require that all purchases greater than a designated amount must be submitted to sealed bid;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Attend meetings of selectmen. Shall attend all meetings of the board of selectmen, and the town manager may attend meetings when the manager's removal is being considered;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Make recommendations. Shall make recommendations to the board of selectmen for the more efficient operation of the town;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Attend town meetings. Shall attend all town meetings and hearings;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Inform of financial condition. Shall keep the board of selectmen and the residents of the town informed as to the town's financial condition;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Collect data. Shall collect data necessary to prepare the budget;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

13. Assist residents. Shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

14. Remove appointments. Has exclusive authority to remove for cause, after notice and hearing, all persons whom the manager is authorized to appoint and report all removals to the board of selectmen.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2637. Transitional provisions

The selectmen, by resolve, may provide for the orderly transition of the town government. These resolves may not infringe upon the rights of any official or employee of the town and may not be inconsistent with this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2638. Regional cooperation

1. Agreement. Any 2 or more towns may enter into an agreement, not inconsistent with this subchapter, to employ and share a manager.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Selection of manager. The selectmen of the contracting towns shall act as a joint board for the purposes of selecting and removing for cause the manager, provided that each town has a single vote.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Compensation. The agreement must contain a formula establishing the percentage of the manager's compensation to be contributed by each town. The selectmen shall determine the manager's total compensation acting as a joint board, each town having a single vote.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Duration. The agreement must specify the method of partial or complete termination of the agreement.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2639. Application

All municipalities operating under the repealed Title 30, chapter 213, subchapter II are deemed to have made the adoption under section 2631, subsection 1, as of October 1, 1969. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 3

MUNICIPAL CLERKS

§2651. Bond

A municipality may require its clerk to be bonded according to section 5601, before assuming the duties of office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2652. Fee schedule

Except as provided in Title 11 and this section, the clerk shall charge for services according to the following fee schedule: [PL 1997, c. 32, §1 (AMD).]

1. Recording; general. Recording the following:

A. Administration of an oath, $1;

(1) The municipality shall pay this fee; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A birth, marriage or death as required by Title 19-A, section 654 and Title 22, sections 2702, 2703 and 2763, 50¢;

(1) The municipality shall pay this fee; [PL 1995, c. 694, Pt. D, §55 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. Affidavit establishing or correcting a record of birth, marriage or death as provided by Title 22, sections 2705 and 2764, $4;

(1) Issuance of a copy of the record to the applicant, $15 for the first copy and $6 for each additional copy; [PL 2009, c. 589, §4 (AMD).]

D. Affidavit legitimating a birth as provided by Title 22, section 2765, $4;

(1) Issuance of a copy of the amended birth record to the applicant, $15 for the first copy and $6 for each additional copy; [PL 2009, c. 589, §5 (AMD).]

E. Release of an attachment, $4; [PL 1993, c. 405, §1 (AMD).]

F. Certificate of partnership, $10; [PL 1993, c. 405, §1 (AMD).]

G. Certificate of withdrawal of a partner, $10; [PL 1993, c. 405, §1 (AMD).]

H. Certificate of a person engaging in trade under a name, style or designation other than that person's own, $10; [PL 1993, c. 405, §1 (AMD).]

I. Honorable discharge or release papers of veterans of the Armed Forces of the United States of America, $4;

(1) A copy of such a document attested by the clerk is prima facie evidence of its existence and validity; [PL 1993, c. 405, §1 (AMD).]

J. Petition for enforcement of a lien on monumental works, $4; [PL 1993, c. 405, §1 (AMD).]

K. License for clam cultivation or an assignment of it, $2; and [PL 1993, c. 405, §1 (AMD).]

L. Any instrument entitled to be recorded, except those under the Uniform Commercial Code, including an executed assignment attached to or made a part of it before it is received for recording, $4 for the first page and $2 for each succeeding page or part of a page;

(1) The acts of any municipality in recording any instrument by microfilm before September 21, 1963 are ratified, confirmed and made effective; [PL 1993, c. 405, §1 (AMD).]

[PL 2009, c. 589, §§4, 5 (AMD).]

2. Marriage intentions and license. Recording marriage intentions and issuing a marriage license, $40, except, when the laws of this State require 2 licenses, the fee is $20 each;
[PL 2009, c. 589, §6 (AMD).]

3. Birth, marriage or death certificates. Issuing the following:

A. Certificate of birth, marriage or death, the clerk may charge up to $15 for the first copy and $6 for each additional copy; and [PL 2009, c. 589, §7 (AMD).]

B. Permit for the disposition of human remains, $20, except that no fee is owed if the disposition of human remains is paid for through the municipal general assistance program under chapter 1161; and [PL 2009, c. 589, §7 (AMD).]

[PL 2009, c. 589, §7 (AMD).]

4. Marginal release. Entering in the margin of a record the release of an attachment, no charge;

A. The person making the marginal release must sign it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

If a municipality provides for a salary to be paid to the clerk as full compensation, all revenues received by the clerk on behalf of the town accrue to the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The Department of Health and Human Services, Maine Center for Disease Control and Prevention shall review the fees charged by the clerk under this section every 3 years beginning in 2013. [PL 2009, c. 589, §8 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 405, §1 (AMD). PL 1995, c. 694, §D55 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 32, §§1,2 (AMD). PL 2005, c. 86, §1 (AMD). PL 2005, c. 112, §§1,2 (AMD). PL 2005, c. 683, §C8 (AMD). PL 2009, c. 589, §§4-8 (AMD).

§2653. Expenses

Each municipality shall pay the reasonable expenses of its clerk and deputy clerk incurred in attending the annual meetings of the Maine Municipal Association and the Maine Town and City Clerks' Association. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2654. Assistant clerks

The clerk may appoint in writing one or more assistants who shall perform any duties of the office prescribed by the clerk. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Sworn and oath recorded. Before assuming the duties of office, an assistant clerk must be sworn and the fact of the oath recorded as provided in section 2526, subsection 9.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Term. The assistant clerk serves at the will of the clerk.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bond liability. The clerk and the surety on the clerk's bond are liable for all acts and omissions of the assistant.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2655. Prohibition on commingling funds

A clerk is prohibited from commingling personal funds with any funds collected for a municipality while performing the duty of clerk. [PL 2009, c. 193, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 193, §1 (NEW).

SUBCHAPTER 4

LAW ENFORCEMENT OFFICERS

§2671. Police officers

1. Appointment. Except as provided by charter, ordinance or section 2636, subsection 6, the municipal officers may appoint police officers for a definite term, and control and fix their compensation. Police officers, including chiefs of police, may be removed for cause after notice and hearing.

A. Before appointing any law enforcement officer, the municipal officers shall investigate the qualifications and background of any person being considered for appointment. This includes investigating the applicant's abilities, reputation for truthfulness and respect for the law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An appointed law enforcement officer is subject to the training requirements of Title 25, chapter 341. [PL 1993, c. 349, §64 (AMD).]

C. Notwithstanding section 2526, residency in the State is not a condition of initial or continued appointment as a municipal police officer. [PL 1989, c. 279, §1 (NEW).]
[PL 1993, c. 349, §64 (AMD).]

2. Powers. Police officers may serve criminal and traffic infraction processes and arrest and prosecute offenders of the law. A police officer has all the statutory powers of a constable, unless limited by charter or ordinance. No police officer has any authority in criminal or traffic infraction matters beyond the limits of the municipality in which the officer is appointed, except to:

A. Recapture a prisoner whom the officer has arrested and who has escaped; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Take a person before the District Court; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Execute a mittimus given to the officer by the District Court; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Pursue a person who has gone into another municipality and for whose arrest the officer has a warrant; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Arrest a person who travels beyond the limits of the municipality in which the officer is appointed when in fresh pursuit of that person. This paragraph applies to all crimes and traffic infractions. As used in this paragraph:

(1) With respect to Class A, Class B and Class C crimes, the term "fresh pursuit" is defined in Title 15, section 152; and

(2) With respect to Class D and Class E crimes and traffic infractions, "fresh pursuit" means instant pursuit of a person with intent to apprehend; or [PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §6 (AMD).]

F. As provided for in section 2674. [PL 1989, c. 104, Pt. A, §23 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 104, Pt. C, §23, Pt (AMD); PL 1989, c. 104, Pt. D, §6 (AMD).]

2-A. Optional powers. Notwithstanding subsection 2, municipal officers may authorize a municipality's police officers who have met the requirements of Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while the police officers are outside the jurisdiction in which they are appointed if, when possible, the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance or, when not possible, the law enforcement agency of the foreign municipality in which the arrest has been made is notified immediately after the arrest.

A. [PL 2003, c. 233, §4 (RP).]

B. [PL 2003, c. 233, §4 (RP).]

[PL 2003, c. 233, §4 (AMD).]

2-B. Liability. When a municipal police officer makes an arrest, as authorized in subsection 2-A or subsection 4, outside of jurisdictional limits of the municipality in which the police officer is appointed, that police officer has the same immunity from tort liability and all of the pension, relief, disability, workers' compensation, insurance and any other benefits the police officer enjoys while performing duties within the police officer's appointing municipality.

[PL 2005, c. 320, §1 (AMD).]

3. Representation of the municipality in District Court. The municipal officers may authorize a law enforcement officer certified by the Maine Criminal Justice Academy, under Title 25, section 2803-A, subsection 1, to represent the municipality in District Court in the prosecution of alleged violations of ordinances which the officer may enforce. Under this subsection, the municipal officers may delegate their power to authorize law enforcement officers to represent the municipality to the municipality's full-time chief of police.

[RR 2007, c. 1, §16 (COR).]

4. Multijurisdictional crimes. If there is probable cause to believe that more than one theft, forgery or negotiation of a worthless instrument committed pursuant to one scheme or course of conduct by the same or several persons has occurred in more than one municipal jurisdiction, a police officer in a municipality in which at least one of the thefts, forgeries or negotiations of worthless instruments was committed may investigate and assist in the prosecution of all the related thefts, forgeries or negotiations of worthless instruments, with the express authorization of the police officer's municipal officers.

[PL 2005, c. 320, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A23,C8,C10 D6 (AMD). PL 1989, c. 279, §1 (AMD). PL 1993, c. 349, §64 (AMD). PL 1993, c. 594, §2 (AMD). PL 2003, c. 233, §4 (AMD). PL 2005, c. 320, §§1,2 (AMD). RR 2007, c. 1, §16 (COR).

§2672. Special police officers

Special police officers of limited jurisdiction may be appointed for a term of not more than one year and as provided in section 2671, subsection 1. These officers have all the powers of a police officer, except as specifically provided by charter, ordinance or the certificate of appointment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2673. Constables

Constables shall be appointed in the same manner and with the same effect as special police officers under section 2672. Persons injured by the neglect or misdoings of a constable have the same remedy by preliminary action and action of the constable's bond, as in the case of a sheriff's bond. For services which may be performed either by a deputy sheriff or a constable, the constable is allowed the same fees as a deputy sheriff, unless otherwise provided. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Carrying weapons. A constable's certificate of appointment shall state whether or not the constable is allowed to carry a weapon, concealed or unconcealed, in the performance of duties. If a constable is restricted in carrying a weapon, this prohibition is not affected by any weapons license the individual may possess.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2674. Aid to other law enforcement agencies

Except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request other municipalities to provide law enforcement officers to assist the requesting municipality. The county commissioners may authorize the sheriff or other designee to request a municipality to provide law enforcement officers to assist the requesting county. The municipal officers may authorize the chief of police or other designee to provide law enforcement officers to assist other municipalities or counties when so requested by a properly authorized chief of police, sheriff or other designee of the requesting municipality or county. [PL 2013, c. 261, §2 (AMD).]

The authorizations of the municipal officers or county commissioners must be accompanied by an agreement between the requesting municipality or county and the responding municipality or county that specifies which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to the law enforcement officers of the responding municipality or county in the course of assisting the requesting municipality or county. [PL 2013, c. 261, §2 (AMD).]

If the request for assistance is for a major unplanned incident that jeopardizes the health and welfare of the citizens of the requesting municipality or county and when delay may cause further jeopardy to life or property or in the case of jointly planned collaborative activity, the police chief of any municipality or sheriff of any county or the chief's or sheriff's designee may request assistance from or provide assistance to another municipality or law enforcement agency whether or not an agreement between the 2 parties exists. Each law enforcement department shall assume its own liability to a 3rd party, except for liability incurred by the command or operational decisions made by the requesting department, which must be assumed by the requesting department. For the purposes of this paragraph, "major unplanned incident" means an extraordinary emergency to which a law enforcement agency is unable to adequately respond that presents a substantial and imminent danger to the public safety and that necessitates the cooperation or assistance of other law enforcement agencies. [PL 2013, c. 261, §2 (AMD).]

The law enforcement officers of the responding municipality or county or law enforcement agency have the same authority as law enforcement officers within the limits of the requesting municipality or county, except as to the service of civil process, and, when assisting other municipalities, have the same privileges and immunities as when acting within their own jurisdiction. [PL 2013, c. 261, §2 (AMD).]

Notwithstanding section 501 and except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request a county sheriff to appoint as a deputy sheriff a municipal law enforcement officer who has satisfied the training requirements of Title 25, sections 2804-C and 2804-E. The authorization of the municipal officers must be accompanied by an agreement between the requesting municipality and the respective county that specifies the purpose and time period for which the authorization is granted and which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to law enforcement officers of the municipality in the course of exercising their authority as deputy sheriffs. A municipal law enforcement officer appointed pursuant to this paragraph has the same authority as a deputy sheriff within the respective county, except as to the service of civil process, and has the same privileges and immunities as when acting within the officer's own jurisdiction. [PL 2015, c. 419, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 654, §1 (AMD). PL 2001, c. 65, §1 (AMD). PL 2013, c. 261, §2 (AMD). PL 2015, c. 419, §1 (AMD).

§2675. Wearing of uniforms or badges; labor disputes

No municipal police officer, special police officer, constable or other municipal law enforcement officer may wear or display a uniform or badge that identifies the officer as a public law enforcement officer at the site of a labor dispute, strike or lockout, except while on active duty in the public service and while traveling to and from public work. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2676. Interstate police assistance

A duly authorized police officer of a neighboring state may exercise all statutory authority under section 2671 within this State, provided that the chief law enforcement officer of the requesting municipality has executed with the chief law enforcement officer of the responding municipality a

written agreement which sets forth the terms and conditions under which assistance may be requested or rendered. [PL 1989, c. 279, §2 (NEW).]

The executed agreement shall constitute authorization for every request for assistance, and for any assistance rendered in accordance with the terms and conditions of the written agreement, regardless of whether the responding police officer is named in the agreement. In an emergency situation, the ranking on-duty law enforcement officer of the requesting municipality is authorized to make an oral request for assistance to the ranking on-duty law enforcement officer in the responding municipality, subject to the terms and conditions of the written agreement, and the responding police officer may exercise all statutory authority under section 2671. [PL 1989, c. 279, §2 (NEW).]

The written agreement shall remain in full force and effect until terminated by the mutual consent of the chief law enforcement officers in each municipality or until 10 days after the chief law enforcement officer of one municipality has received notification from the chief law enforcement officer of the other municipality of that officer's intentions to terminate. [PL 1989, c. 279, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 279, §2 (NEW).

§2677. Health insurance; retired employee

Notwithstanding section 2671, a municipality shall keep a retired municipal employee formerly employed by the municipality in that municipality's health care plan as long as the retired employee continues to pay the health insurance group rate premiums required for that retired employee. [PL 1997, c. 419, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 419, §1 (NEW).

§2678. Death of a person in custody

When a person in custody dies, an examination and inquest must be held, and the chief of police shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "custody" means custody pursuant to an arrest, confinement in a local lockup or when the person is on the way to or from a courthouse or a local lockup while in the custody of a local law enforcement officer. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed. [PL 2011, c. 420, Pt. D, §4 (NEW); PL 2011, c. 420, Pt. D, §6 (AFF).]

SECTION HISTORY

PL 2011, c. 420, Pt. D, §4 (NEW). PL 2011, c. 420, Pt. D, §6 (AFF).

SUBCHAPTER 5

BOARD OF APPEALS

§2691. Board of appeals

This section governs all boards of appeals established after September 23, 1971. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Establishment. A municipality may establish a board of appeals under its home rule authority. Unless provided otherwise by charter or ordinance, the municipal officers shall appoint the members of the board and determine their compensation.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Organization. A board of appeals shall be organized as follows.

A. The board shall consist of 5 or 7 members, serving staggered terms of at least 3 and not more than 5 years, except that municipalities with a population of less than 1,000 residents may form a board consisting of at least 3 members. The board shall elect annually a chairman and secretary from its membership. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue shall be decided by a majority vote of the members, excluding the member who is being challenged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The municipal officers may dismiss a member of the board for cause before the member's term expires. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Municipalities may provide under their home rule authority for a board of appeals with associate members not to exceed 3. If there are 2 or 3 associate members, the chairman shall designate which will serve in the place of an absent member. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Procedure. The following provisions govern the procedure of the board.

A. The chairman shall call meetings of the board as required. The chairman shall also call meetings of the board when requested to do so by a majority of the members or by the municipal officers. A quorum of the board necessary to conduct an official board meeting must consist of at least a majority of the board's members. The chairman shall preside at all meetings of the board and be the official spokesman of the board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The secretary shall maintain a permanent record of all board meetings and all correspondence of the board. The secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the board. All records to be maintained or prepared by the secretary are public records. They shall be filed in the municipal clerk's office and may be inspected at reasonable times. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The board may provide, by regulation that must be recorded by the secretary, for any matter relating to the conduct of any hearing, except that the chair may waive any regulation upon good cause shown. Unless otherwise established by charter or ordinance, the board shall conduct a de novo review of any matter before the board subject to the requirements of paragraph D. If a charter

or ordinance establishes an appellate review process for the board, the board shall limit its review on appeal to the record established by the board or official whose decision is the subject of the appeal and to the arguments of the parties. The board may not accept new evidence as part of an appellate review. [PL 2017, c. 241, §1 (AMD).]

D. The board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative or agent, the planning board, agency or office and the municipal officers within 7 days of the board's decision. [PL 1991, c. 234 (AMD).]

F. The board may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Notwithstanding paragraph G, appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration or within the applicable time period under section 4482-A if the final municipal review of the project is by a municipal administrative review board other than a board of appeals. [PL 2017, c. 241, §2 (AMD).]

G. Any party may take an appeal, within 45 days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury. [PL 1991, c. 234 (AMD).]

H. For purposes of this section, a decision of the board is a final decision when the project for which the approval of the board is requested has received all required municipal administrative approvals by the board, the planning board or municipal reviewing authority, a site plan or design review board, a historic preservation review board and any other review board created by municipal charter or ordinance. If the final municipal administrative review of the project is by a municipal administrative review board other than a board of appeals, the time for appeal is governed by section 4482-A. Any denial of the request for approval by the board of appeals is considered a final decision even if other municipal administrative approvals are required for the project and remain pending. A denial of the request for approval by the board of appeals must be appealed within 45 days of the date of the board's vote to deny or within 15 days of final action by the board on a reconsideration that results in a denial of the request. [PL 2017, c. 241, §3 (NEW).]

[PL 2017, c. 241, §§1-3 (AMD).]

4. Jurisdiction. Any municipality establishing a board of appeals may give the board the power to hear any appeal by any person, affected directly or indirectly, from any decision, order, regulation or failure to act of any officer, board, agency or other body when an appeal is necessary, proper or required. No board may assert jurisdiction over any matter unless the municipality has by charter or

ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board. Absent an express provision in a charter or ordinance that certain decisions of its code enforcement officer or board of appeals are only advisory or may not be appealed, a notice of violation or an enforcement order by a code enforcement officer under a land use ordinance is reviewable on appeal by the board of appeals and in turn by the Superior Court under the Maine Rules of Civil Procedure, Rule 80B. Any such decision that is not timely appealed is subject to the same preclusive effect as otherwise provided by law. Any board of appeals shall hear any appeal submitted to the board in accordance with Title 28-A, section 1054. [PL 2013, c. 144, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A24,C8,C10 (AMD). PL 1991, c. 234 (AMD). PL 2003, c. 635, §1 (AMD). PL 2013, c. 144, §1 (AMD). PL 2017, c. 241, §§1-3 (AMD).

SUBCHAPTER 6

MUNICIPAL EMPLOYMENT

§2701. Employee probation periods

Except as specifically provided otherwise by charter or ordinance, any reference to cause and hearing in this Part only applies to an employee who has completed a reasonable probation period established by the municipality. Periods of probation may not exceed 6 calendar months or the length of time in effect in a municipality on January 1, 1984, whichever is greater, except in the case of police officers, who upon being hired shall complete an employment probationary period that lasts for at least one year after graduation from the Maine Criminal Justice Academy or the date the board waives the basic training requirement. [PL 1993, c. 744, §15 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A25,C8,C10 (AMD). PL 1991, c. 182 (AMD). PL 1993, c. 744, §15 (AMD).

§2702. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by

this subsection must remain confidential and are not open to public inspection; [PL 2019, c. 451, §3 (AMD).]

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2019, c. 451, §3 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 451, §3 (AMD).]

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §7 (NEW).]

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §7 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §7 (NEW).]

2. Employee right to review. On written request from an employee or former employee, the municipal official with custody of the records shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the municipal official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal official may possess. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §3 (AMD). PL 1991, c. 229, §3 (AMD). PL 1991, c. 729, §7 (AMD). PL 1997, c. 770, §3 (AMD). PL 2013, c. 201, §3 (AMD). PL 2019, c. 451, §3 (AMD).

§2703. Residency requirement; ordinances and collective bargaining

A municipality may not enact any ordinance which requires employees to reside within the boundaries of the municipality as a condition of employment, nor may collective bargaining agreements contain these strict requirements. A municipality may negotiate collective bargaining agreements or, if the municipality does not engage in collective bargaining, enact ordinances that require employees to reside within a specified distance or a specific response time of a facility where those provisions represent a legitimate job requirement, and provided that the ordinances do not apply to employees already employed when the ordinance takes effect. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

This section applies only to public employees, as defined in Title 26, section 962, subsection 6. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2704. Mandatory retirement age prohibited

1. Legislative findings and intent. The legislative findings and intent for this section are the same as the findings and intent specified in Title 5, section 4575, subsection 1.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Prohibition. A municipality may not enact any ordinance or adopt any regulation which requires a municipal employee, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Criteria and standards. A municipality may establish reasonable criteria and standards of job performance to be used for the purpose of determining when the employment of municipal employees should be terminated. These criteria and standards are subject to all of the provisions included under Title 5, section 4575, subsection 2.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Normal retirement age. This section shall not be construed to prohibit the use of a "normal retirement age," as defined in the United States Employee Retirement Income Security Act of 1974, Public Law 93-406, as amended, in computing pension or retirement benefits, provided that normal retirement age and the accrual or awarding of pension or retirement benefits may not be used in any way to require the retirement of an employee or to deny employment to a person.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Federal requirements. This section shall not be construed to affect or limit any power or duty relating to pension or retirement plans which the Federal Government reserves to itself.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2705. Municipal employee participation in disaster relief

In order to participate in specialized disaster relief services for the American Red Cross, a municipal employee who is a certified disaster service volunteer of the American Red Cross, upon the request of the American Red Cross and with the approval of the legislative body of the municipality or the municipal officers, may: [PL 1997, c. 600, §2 (NEW).]

1. Paid leave. Be granted a leave not to exceed 15 days in each year without loss of pay, vacation time, sick leave or earned overtime accumulation;
[PL 1997, c. 600, §2 (NEW).]

2. Use of compensated time off. Be granted a leave using that employee's compensated time off, with the consent of the employee; or
[PL 1997, c. 600, §2 (NEW).]

3. Combination. Be granted a leave using a combination of paid leave and compensated time off authorized in subsections 1 and 2.
[PL 1997, c. 600, §2 (NEW).]

This section applies only to relief services related to a disaster declared by the governor of a state or territory or by the President of the United States. [PL 1997, c. 600, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 600, §2 (NEW).

CHAPTER 125

MUNICIPAL RECORDS

§2751. Short title

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

§2752. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

§2753. General requirements

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

§2754. Municipal Records Board

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

§2755. Powers and duties of board

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

§2756. Assistance to municipalities

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

§2757. Violation

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 304, §6 (RP).

CHAPTER 127

MUNICIPAL REPORTS

§2801. Annual report

The officers of each municipality shall publish annually a complete report subject to the following provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Record of financial transactions. The report shall contain a record of all financial transactions of the municipality during the last municipal year. It may include an itemized list of receipts and disbursements indicating to whom and for what purpose each amount was paid.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Statement of assets and liabilities; delinquent taxpayers. The report shall contain a detailed statement of the assets and liabilities of the municipality including a list of all delinquent taxpayers and the amount due from each. It shall also contain any engineering and survey reports relating to the boundaries of the municipality and all related proceedings and actions of the municipal officers, together with any other information that the municipal officers consider to be of historical significance.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Postaudit report. The report shall contain the statement that the complete postaudit report for the last municipal year is on file at the municipal office and the following excerpts from the report:

A. Name and address of the auditor; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Auditor's comments and suggestions for improving the financial administration; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Comparative balance sheet; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Statement of departmental operations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3-A. Names of those issued concealed handgun permits. The names of persons issued concealed handgun permits under Title 25, chapter 252 may not be printed in the annual report.
[PL 2011, c. 298, §12 (AMD).]

4. Copies for distribution. Copies of the report must be deposited in the municipal office or a convenient place of business for distribution to the voters at least 3 days before the annual meeting or the annual business meeting.
[PL 1993, c. 19, §1 (AMD).]

5. Copies open for inspection. Copies of the report and all municipal records shall be kept in the municipal office, or in the office of the clerk, and are open to the inspection of voters during usual business hours.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Penalty. A municipal official who refuses or neglects to perform any duty required by this section commits a civil violation for which a fine of $50 for each offense may be adjudged.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 19, §1 (AMD). PL 2011, c. 298, §12 (AMD).

§2802. Reports by sworn officials

A municipal official who has been sworn to the faithful performance of the official's duty need not swear to any report, account or statement to be filed with any of the state departments. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 129

TOWN LINES

§2851. Identification of boundary lines

If a municipality, acting through its board of municipal officers, formally advises the municipal officers of one or more adjoining municipalities that there is a dispute regarding the location of the boundary or boundaries between the municipality and its adjoining municipalities, the boundary lines between municipalities must be perambulated to determine whether the boundary location is apparent within 5 meters, except as provided in subsection 7. The following procedures apply. [PL 2003, c. 7, §1 (AMD).]

1. Notice. The municipal officers shall give a 10-day written notice to the officers of the adjoining municipalities advising them of the time and place of meeting for perambulation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Failure to appear. If the officers of any municipality fail to appear in person, or by representative, at the time and place appointed for the required perambulation, the municipality which complies with its duty may perambulate the line and charge the other municipality for 1/2 the expense incurred.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Expense. Each municipality shall pay an equal share of the expense of perambulation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Unorganized area. Where a municipality adjoins an unorganized area, the county in which this area is located has the duties of a municipality for the purpose of perambulating its boundary lines and paying its share of the expense of the perambulation. The county commissioners shall perform the duties required of municipal officers.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Record of observations. The adjoining municipalities shall record:

A. The dates and times when the perambulation took place; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The names of the municipal officers participating; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Either:

(1) A certification by the participants that they were able to identify all monuments described in the legislated definition of the boundary and that the boundary location was apparent within 5 meters at all locations along its length; or

(2) A statement of the deficiencies found and a record of the action taken to correct those deficiencies. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Deficiencies. If all monuments are found in place and apparently undisturbed, but the boundary location is in doubt because of obstructions to visibility between monuments occurring since the last perambulation, the municipal officers shall have the line cleared of obstructions. If monuments have been disturbed or destroyed, or for some other reason it is necessary to precisely locate the boundary

line, the municipal officers shall locate and monument the line, so that the certification required by subsection 5 may be completed.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Monumentation and record. Municipal boundaries do not need to be perambulated if:

A. Monuments of granite or other material of comparable life and resistance to movement are located at all angle points and at intervals not exceeding 500 meters along straight boundaries, except for water crossings that exceed that interval; [PL 2003, c. 7, §2 (AMD).]

B. Monuments have drill holes or punch marks in inserts not exceeding one centimeter in diameter, indicating the point on the monument to be used as the boundary; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Boundaries are shown to scale on a plan filed at the offices of the adjoining municipalities and at the registry of deeds of the county, or adjoining counties, in which the municipalities are located, and that plan includes:

(1) The location of all monuments together with dimensions by which those monuments may be found and checked for accuracy; and

(2) A certification by a qualified and registered land surveyor that the surveyor has examined the records of the legislative action which created that boundary, verified the location of the boundary monuments on the ground and finds agreement, subject to any minor discrepancies that have been noted on the plan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 7, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 7, §§1,2 (AMD).

§2852. Disputed boundary lines

When a controversy over a boundary line exists between adjoining municipalities, either may file a complaint with the Superior Court stating the facts and requesting that the line be run. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Commissioners appointed. The court, after due notice to all parties, shall appoint 3 commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Ascertain and describe line. The commissioners, after giving the interested municipal officers at least 10 days' written notice of the time and place of meeting, shall ascertain the line and describe it by courses and distances.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Temporary markers. The commissioners shall set temporary markers to indicate the established line.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Report. The commissioners shall report their proceedings to the court.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. True line. When the court accepts the report, the line established by the commissioners becomes the true line for every municipal purpose, and the court shall order the interested municipalities to replace the temporary markers with monuments as provided in section 2851, subsection 7.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Expense. Each municipality shall pay an equal share of the expense of erecting monuments.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Compensation of commissioners. The court shall allow the commissioners a proper compensation for their services and issue a warrant for its collection from the interested municipalities in equal proportions.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 131

HISTORY AND OBSERVANCES

§2901. Decoration of veterans' graves on Memorial Day

1. Decoration of veterans' graves. Each municipality, as directed by its municipal officers, annually shall decorate on the day Memorial Day is observed the graves of veterans of the Armed Forces of the United States of America with an American flag and appropriate flag holders.
[PL 1999, c. 700, §3 (AMD).]

2. Erection of flagpole as alternative.
[PL 1999, c. 700, §3 (RP).]

3. No effect on individuals' right to decorate. This section does not in any way affect the right of any friend or relative of a deceased veteran to decorate the grave.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Bell ringing on Veterans Day. Each municipality shall, unless it will cause the municipality to incur an additional expense, cause any public bell or clarion within its possession or control to be rung at 11:00 a.m. on Veterans Day, and the municipal officers of each municipality shall request that any other bell or clarion within the municipality be rung voluntarily at 11:00 a.m. on Veterans Day, and shall take such steps as are necessary to properly coordinate public and volunteer events.
[PL 1999, c. 700, §3 (AMD).]

5. Unorganized townships. If veterans' graves as described in this section are located in an unorganized township, the county in which that unorganized township is located is subject to the provisions in this section.
[PL 1999, c. 700, §3 (NEW).]

6. Graves on land owned by Federal Government. Veterans' graves located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of this section.
[PL 1999, c. 700, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 211 (AMD). PL 1999, c. 700, §3 (AMD).

§2902. Old Home Week

The week beginning with the 2nd Sunday in August of each year, or any other week designated by the municipality's legislative body, is designated and set apart as Old Home Week. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 133

FENCES AND FENCE VIEWERS

§2951. Legal fences

All fences 4 feet high and in good repair, consisting of rails, timber, stone walls, iron or wire, and brooks, rivers, ponds, creeks, ditches and hedges, or other things which in the judgment of the fence viewers having jurisdiction thereof are equivalent thereto, are legal and sufficient fences. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2952. Maintenance

The occupants of lands enclosed with fences shall maintain partition fences between their own and the adjoining enclosures, in equal shares, while both parties continue to improve them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2953. Neglect of owners; function of fence viewers

If any party neglects or refuses to repair or rebuild any such fence that that party is legally required to maintain, the aggrieved party may complain to 2 or more fence viewers of the town where the land is situated who, after due notice to the delinquent party, shall proceed to survey it and, if they determine that it is insufficient, they shall signify it in writing to the delinquent occupant and direct the delinquent occupant to repair or rebuild it within such time as they judge reasonable not exceeding 30 days. If the

fence is not repaired or rebuilt accordingly, the complainant may make or repair it. [PL 1991, c. 548, Pt. A, §24 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 548, §A24 (AMD).

§2954. Double compensation for building fence

When the complainant has completed such fence and, after notice given, it has been adjudged sufficient by 2 or more of the fence viewers, and the value thereof, with the fence viewers' fees, certified under their hands, the complainant may demand of the occupant or owner of the land where the fence was deficient double the value and fees thus ascertained. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

In case of neglect or refusal for one month after demand, the complainant may recover the same by a civil action, with interest at the rate of 1% a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence viewers, certified by them, double the amount thereof may be recovered by the complainant as provided. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2955. Division of partition fences; record of assignments; fees

When the occupants or owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, 2 or more fence viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each the occupants' or owners' share thereof and limit the time in which each shall build or repair each occupant's or owner's part of the fence, not exceeding 30 days. Such assignment and all other assignments of proprietors of partition fences provided for, recorded in the town clerk's office, shall be binding upon the parties and they shall thereafter maintain their part of the fence. If such fence has been built and maintained by the parties in unequal proportions and the fence viewers adjudge it to be good and sufficient, they may, after notice in writing under their hands, award to the party who built and maintained the larger portion the value of such excess, to be recovered in a civil action against the other party if not paid within 6 months after demand. Parties to assignments shall pay the fees of the fence viewers certified under their hands in equal proportions, and if either party neglects to pay the party's proportion within one month after demand, the party applying to the fence viewers may pay the same and recover of the delinquent party, in a civil action, double the amount of that party's proportion thereof. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2956. Building of part assigned; remedy on failure

If any party refuses or neglects to build and maintain the part thus assigned to that party, it may be done by the aggrieved party who is entitled to double the value and expenses, to be ascertained and recovered as provided in section 2954, and shall have a lien therefor on the land owned or occupied by the party neglecting or refusing to build or maintain the partition fence assigned to that party by the

fence viewers, to be enforced by attachment made within one year from the day of division by them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2957. Repairs

All division fences shall be kept in good repair throughout the year, unless the occupants of adjacent lands otherwise agree. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2958. Fences may vary from dividing line

When, in the opinion of the fence viewers having jurisdiction of the case, it is, by reason of natural impediments, impracticable or unreasonably expensive to build a fence on the true line between adjacent lands and the occupants disagree respecting its position, on application of either party as provided in section 2955, and after notice to both parties and a view of the premises, they may determine by a certificate under their hands communicated to each party on which side of the true line and at what distance, or whether partly on one side and partly on the other and at what distances, the fence shall be built and maintained and in what proportion by each party. Either party may have the same remedy against the other as if the fence were on the true line. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2959. Assignment of parts before fence is built

When adjacent lands have been occupied in common without a partition fence and either party desires to occupy in severalty or when it is necessary to make a fence running into the water and the parties liable to build and maintain it disagree, either party may apply to the fence viewers of the town, who shall proceed as in section 2955, except that the fence viewers may allow longer than 30 days for building the fence, having regard to the season of the year. In other respects, the remedy shall be as provided in section 2955. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2960. Occupant ceasing to improve land; adjoining owner may buy fence

When one party ceases to improve that party's land or lays open that party's enclosure, that party shall not take away any part of that party's partition fence adjoining the next enclosure improved if the owner or occupant thereof will pay therefor what 2 or more fence viewers, on due notice to both parties, determine to be its reasonable value. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2961. Liability of owner starting to improve land lying in common

When any land which has been unenclosed is afterwards enclosed or used for pasturing, its occupant or owner shall pay for 1/2 of each partition fence on the line between that occupant's or owner's land and the enclosure of any other occupant or owner and its value shall be ascertained in writing; if the parties do not agree, by 2 or more of the fence viewers of the town where such fence stands. After the value is so ascertained, on notice to such occupant or owner, if the occupant or owner neglects or refuses for 30 days after demand to pay it, the proprietor of the fence may have a civil action for such value and the cost of ascertaining it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2962. Fences on town line

If the line on which a partition fence is to be made or divided is the boundary between 2 or more towns, or partly in one town and partly in another, a fence viewer shall be taken from each town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2963. Division of fences; notice; verbal agreements

When a fence between owners of improved lands is divided either by fence viewers or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall erect and support it accordingly. If any person lays that person's own lands common, and determines not to improve any part of them adjoining such fence, and gives 6 months' notice to all occupants of adjoining lands, that person shall not be required to maintain such fence while that person's land so lies common and unimproved. All partition fences divided by parol agreement and actually built in pursuance of such agreement, including fences so built heretofore, shall be deemed legal fences as if divided by fence viewers or written agreement, and the adjoining owners shall support their respective portions of fence under such agreement until otherwise ordered by the fence viewers on application to them by either party. When a party has constructed that party's part of a fence in pursuance of a parol or written agreement or assignment of fence viewers, no assignment may thereafter be made by fence viewers depriving that party of the full value of such fence or any part thereof. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2964. Applicability to house lots or written agreements

Nothing in this chapter extends to house lots, the contents of which do not exceed half an acre; but if the owner of such lot improves it, the owner of the adjacent land shall make and maintain 1/2 of the fence between them whether that owner of adjacent land improves or not; nor does this chapter make void any written agreement respecting partition fences. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2965. Neglect of duty by fence viewers

Any fence viewer who, when requested, unreasonably neglects to view any fence or to perform any other duties required of the fence viewer forfeits $3 to any person suing therefor within 40 days after such neglect and is liable for all damages to the party injured. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§2966. Compensation of fence viewers

Each fence viewer shall be paid by the person employing the fence viewer at the rate of $3 a day for the time employed. If the party liable neglects to pay the same for 30 days after demand, each fence viewer may recover double the amount in a civil action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBPART 4

ORDINANCE AUTHORITY AND LIMITATIONS

CHAPTER 141

ORDINANCES

§3001. Ordinance power

Any municipality, by the adoption, amendment or repeal of ordinances or bylaws, may exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution of Maine, general law or charter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Liberal construction. This section, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect its purposes.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Presumption of authority. There is a rebuttable presumption that any ordinance enacted under this section is a valid exercise of a municipality's home rule authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Standard of preemption. The Legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the municipal ordinance in question would frustrate the purpose of any state law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Penalties accrue to municipality. All penalties established by ordinance shall be recovered on complaint to the use of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3002. Enactment procedure

Unless otherwise provided by charter or law, a municipality must enact ordinances by the following procedure. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Posted. The proposed ordinance must be attested and posted in the manner provided for town meetings. If a proposed ordinance or comprehensive plan exceeds 10 pages in length, it is sufficient to satisfy this posting requirement that the warrant and the warrant article related to the adoption of the ordinance or plan includes a statement that copies of the text of the ordinance or plan and map, if any, are available from the town clerk.
[PL 1993, c. 374, §1 (AMD).]

2. Certification. The municipal officers shall certify one copy of the proposed ordinance to the municipal clerk at least 7 days before the day of meeting. The clerk shall keep that copy as a public record and shall make copies available for distribution to the voters from the time of certification. Copies shall be made available at the town meeting.

A. No ordinance of any municipality subject to this subsection may be held invalid due to the municipality's failure to comply with this subsection unless the plaintiff is prejudiced or harmed by that failure. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Question. The subject matter of the proposed ordinance shall be reduced to the question: "Shall an ordinance entitled ' ' be enacted?" and shall be submitted to the town meeting for action either as an article in the warrant or a question on a secret ballot.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Application. Subsections 1, 2 and 3 do not apply to ordinances which may be enacted by the municipal officers.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 374, §1 (AMD).

§3003. Adoption of codes by reference

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

A. "Code" means any published compilation of regulations or enforceable standards which has been prepared by any association or organization that is nationally recognized for establishing standards in the areas set out below, or any department or agency of the Federal Government or the State, and includes:

(1) Building codes;

(2) Plumbing codes;

(3) Electrical wiring codes;

(4) Health or sanitation codes;

(5) Fire prevention codes;

(6) Inflammable liquids codes; and

(7) Any other code which embraces regulations pertinent to a subject which is a proper municipal legislative matter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. "Published" means printed or otherwise reproduced. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Adoption and amendment of codes by reference. Any ordinance adopted or repealed by a municipality under its home rule authority may incorporate by reference any code or portions of any code, or any amendment of such a code, properly identified as to date and source, without setting forth the provisions of the code in full.

A. At least one copy of the code, portion or amendment that is incorporated or adopted by reference must be filed in the office of the municipal clerk and kept there available for public use, inspection and examination. The required copy of the codes, portion or amendment or public record must be filed with the municipal clerk for 30 days before the adoption of the ordinance that incorporates the code, portion or amendment by reference. [PL 1993, c. 374, §2 (AMD).]

B. If such a code, portion or amendment is promulgated by a metropolitan or regional agency, the adopting municipality must be within the territorial boundaries of the agency. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The filing requirements for ordinances adopted under Title 38, sections 435 to 447, are deemed to be met if the codes were on file in the clerk's office by July 1, 1974. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1993, c. 374, §2 (AMD).]

3. Posting and publication of adopting ordinance. This section does not relieve any municipality of the requirement of posting or publishing in full the ordinance which adopts a code, portion or amendment by reference. All provisions applicable to that publication shall be fully and completely carried out as if no code, portion or amendment were incorporated in the ordinance.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Adoption of penalty clauses. Any ordinance adopting a code, portion or amendment by reference shall state the penalty for violating the code, portion or amendment separately. No part of any such penalty may be incorporated by reference.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 374, §2 (AMD).

§3004. Revision, codification and publication

A municipality may revise, codify and publish from time to time in book or pamphlet form all or part of its ordinances arranged in appropriate classifications excluding the titles, signatures and other formal parts of the enacting legislation for the purpose of producing a complete, accurate code of the ordinances in force. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Enactment. The revised code shall be enacted by one ordinance entitled "An ordinance to revise and codify ordinances of the City (or Town) of .....".
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Repeals; vested rights. The revised code is a repeal of all ordinances in conflict with it, but all ordinances in force before its adoption continue in force for the sole purpose of preserving vested rights acquired under the former provisions.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Admissible in evidence; revision. When adopted, the revised code becomes law and is admissible in all courts without further proof as prima facie evidence of its existence and validity.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Revision of ordinance. In the process of codifying a municipality's ordinances, an ordinance may be revised only by following the procedure required for its original enactment. This subsection does not require the individual enactment of changes in each ordinance which is to be codified by a municipality except when the enactment procedure to be followed requires it.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3005. Ordinances available

Every ordinance of a municipality shall be on file with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at reasonable cost, at the expense of the person making the request. Notice that the ordinances are available shall be posted. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3006. Proof of ordinances

The submission to any court or administrative tribunal of a municipal ordinance, bylaw, order or resolve of the legislative body or municipal officers of a municipality, when the ordinance, bylaw, order or resolve has been certified over the signature of the municipal clerk, is prima facie proof of the validity of that ordinance, bylaw, order or resolve. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3007. Specific ordinance provisions

The power to enact ordinances under section 3001 is subject to the following provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Limitation on affecting municipal officials. No change in the composition, mode of election or terms of office of the municipal legislative body, the mayor or the manager of any municipality may be accomplished by bylaw or ordinance.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Buildings, structures, mobile homes, travel trailers and related equipment. The following provisions apply to any ordinance enacted by a municipality concerning buildings, structures, mobile homes, travel trailers intended to be used for human habitation and all related equipment.

A. Any building, structure, mobile home or travel trailer intended to be used for human habitation and travel trailer parking facility or any related equipment existing in violation of such an ordinance is a nuisance. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §26 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §26 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Falling ice and snow. The following provisions apply to any ordinance enacted by a municipality to protect persons and property from injury by requiring building owners or lessees to install roof guards to prevent the fall of snow and ice from the roofs of their buildings.

A. The municipal officers shall send a written notice to the owner or lessee who fails to comply with such an ordinance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If the owner or lessee does not install effective roof guards within 14 days after notice is sent, the owner or lessee is absolutely liable for all injury caused by failure to do so. [PL 1989, c. 6

(AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §27 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. After the 14-day period expires, the municipal officers may have proper roof guards installed at the municipality's expense, the reasonable charges for which may be recovered from the owner or lessee by special assessment as provided by Title 25, section 2393. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Any building existing in violation of such an ordinance is a nuisance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §27 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Pension system. The following provisions apply to any ordinance enacted by a municipality to establish and maintain a general system of contributory pensions for the benefit of its officials and employees.

A. Money appropriated by any municipality for the operation of a pension system together with money contributed by any person eligible to participate in the system shall be administered by a board created for that purpose and shall be kept in a separate fund to be invested and disbursed by the board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A municipality which establishes such a system may contract with any insurance company licensed to do business in the State for the payment of pension benefits. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any pension funds held by a municipality or by a board established by it are exempt from attachment or trustee process. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Firearms and hunting equipment. A municipality shall consult with the Department of Inland Fisheries and Wildlife during the process of the consideration of the adoption or amendment of a firearm discharge ordinance. The area in which the discharge of firearms is prohibited by a firearm discharge ordinance must be described in the ordinance using clearly defined physical boundaries as points of reference. For purposes of this subsection, the term "clearly defined physical boundaries" includes but is not limited to roads, waterways and utility corridors. After January 1, 2000, a municipality that adopts or amends a firearm discharge ordinance shall provide the Commissioner of Inland Fisheries and Wildlife with a copy of the new or amended firearm discharge ordinance and a copy of any maps that show the areas in the municipality affected by the new or amended ordinance within 30 days from the date that the ordinance is enacted or amended. A municipality may not adopt or enforce any ordinance prohibited under Title 12, section 13201.

[PL 2013, c. 199, §2 (AMD).]

6. Restriction on nullification of final permit. A municipality may not nullify or amend a municipal land use permit by a subsequent enactment, amendment or repeal of a local ordinance after a period of 45 days has passed after:

A. The permit has received its lawful final approval; and [PL 2011, c. 63, §1 (NEW).]

B. If required, a public hearing was held on the permit. [PL 2011, c. 63, §1 (NEW).]

For purposes of this subsection, "municipal land use permit" includes a building permit, zoning permit, subdivision approval, site plan approval, conditional use approval, special exception approval or other land use permit or approval. For the purposes of this subsection, "nullify or amend" means to nullify or amend a municipal land use permit directly or to nullify or amend any other municipal permit in a manner that effectively nullifies or amends a municipal land use permit. This subsection does not alter or invalidate any provision of a municipal ordinance that provides for the expiration or lapse of a permit or approval granted pursuant to that permit following the expiration of a certain period of time.
[PL 2011, c. 63, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A26,27, C8,10 (AMD). PL 1995, c. 266, §1 (AMD). PL 1999, c. 154, §1 (AMD). PL 2003, c. 332, §1 (AMD). PL 2011, c. 63, §1 (AMD). PL 2013, c. 199, §2 (AMD).

§3008. Ordinances relating to cable television systems

1. State policy. It is the policy of this State, with respect to cable television systems:

A. To affirm the importance of municipal control of franchising and regulation in order to ensure that the needs and interests of local citizens are adequately met; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. That each municipality, when acting to displace competition with regulation of cable television systems, shall proceed according to the judgment of the municipal officers as to the type and degree of regulatory activity considered to be in the best interests of its citizens; [PL 2007, c. 548, §1 (AMD).]

C. To provide adequate statutory authority to municipalities to make franchising and regulatory decisions to implement this policy and to avoid the costs and uncertainty of lawsuits challenging that authority; and [PL 2007, c. 548, §1 (AMD).]

D. To ensure that all cable television operators receive the same treatment with respect to franchising and regulatory processes and to encourage new providers to provide competitive pressure on the pricing of such services. [PL 2007, c. 548, §1 (NEW).]
[PL 2007, c. 548, §1 (AMD).]

1-A. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Cable system operator" has the same meaning as "cable operator," as that term is defined in 47 United States Code, Section 522(5), as in effect on January 1, 2008; [PL 2007, c. 548, §1 (NEW).]

B. "Cable television service" has the same meaning as "cable service," as that term is defined in 47 United States Code, Section 522(6), as in effect on January 1, 2008; and [PL 2007, c. 548, §1 (NEW).]

C. "Cable television system" has the same meaning as "cable system," as that term is defined in 47 United States Code, Section 522(7), as in effect on January 1, 2008. [PL 2007, c. 548, §1 (NEW).]
[PL 2007, c. 548, §1 (NEW).]

2. Ordinances. A municipality may enact any ordinances, not contrary to this chapter, governing franchising and regulation of cable television systems using public ways. Systems located in accordance with those ordinances, franchises and regulations are not defects in public ways.

The municipal officers of municipalities have the exclusive power to enact all ordinances authorized by this section. They shall give 7 days' notice of the meeting at which those ordinances are to be proposed in the manner provided for town meetings. Those ordinances take effect immediately.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. General requirements. The following requirements apply generally to cable television systems governed by this section.

A. Any cable television system must be constructed and operated in accordance with Federal Communications Commission regulations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Notwithstanding any provision in a franchise, a cable system operator may not abandon service or a portion of that service without having given 6 months' prior written notice to the franchising municipality, if any, and to the municipalities affected by that abandonment. When abandonment of any service is prohibited by a municipal franchise, a cable system operator may not abandon that service without written consent of the municipal officers. Any cable system operator that violates this paragraph commits a civil violation for which a fine of $50 a day for each day that the violation continues may be adjudged. [PL 2007, c. 548, §1 (AMD).]

C. Neither the cable system operator whose facilities are used to transmit a program produced by a person other than that operator, under Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of any such cable system operator are liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that cable system operator does not originate or produce the program. [PL 2007, c. 548, §1 (AMD).]

D. [PL 2007, c. 548, §1 (RP).]

E. A municipality is entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred upon the municipality by this section or any ordinances enacted under this section or section 3010. [PL 2007, c. 548, §1 (AMD).]

F. Notwithstanding any provision in a franchise, a cable system operator shall offer subscribers the option of purchasing access to cable channels, or programs on cable channels, individually. [PL 2019, c. 308, §1 (NEW).]

[PL 2019, c. 308, §1 (AMD).]

4. Franchise procedures. Pursuant to subsection 2, a municipality may enact ordinances governing the procedures for granting franchises to cable system operators. These ordinances must be enacted before granting any such franchise or franchises and must be designed to ensure that the terms and conditions of a franchise will adequately protect the needs and interests of the municipality. The ordinances must include, but are not limited to, provisions for the following:

A. A mechanism for determining special local needs or interests before issuing a request for proposals, whether by actively seeking to determine those needs or interests or by allowing a period for public comment on a proposed request for proposals; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The filing of franchise applications and related documents as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A reasonable opportunity for public input before granting franchises; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the municipality in acting upon applications. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2007, c. 548, §1 (AMD).]

5. Franchise agreements or contracts. The State specifically authorizes municipal officers pursuant to ordinances to contract on such terms and conditions and impose such fees as are in the best interests of the municipality, including the grant of exclusive or nonexclusive franchises for a period not to exceed 15 years, for the placing and maintenance of cable television systems and appurtenances, or parts thereof, along public ways and including contracts with cable system operators that receive the services of television signal transmission offered by any public utilities using public ways for such transmission. A public utility may not be required to contract with the municipal officers under this subsection. Each franchise must contain the following provisions:

A. The area or areas to be served; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A line extension policy, which must specify a minimum density requirement of no more than 15 residences per linear strand mile of aerial cable for areas in which the cable system operator will make cable television service available to every residence; [PL 2019, c. 245, §1 (AMD).]

C. A provision for renewal, the term of which may not exceed 15 years. A provision for automatic renewal or other provision for extending the initial term is prohibited. Franchise renewal is governed by section 3010, subsection 5-C; [PL 2019, c. 245, §1 (AMD).]

D. Procedures for the investigation and resolution of complaints by the cable system operator; [PL 2019, c. 245, §2 (AMD).]

D-1. A provision for the use and support of public, educational and governmental access channels, which must be carried in the same manner and numerical location sequence as are the local broadcast channels originating from the State and carried on the cable television system pursuant to section 3010, subsection 5-A; and [PL 2019, c. 245, §3 (NEW).]

E. Any other terms and conditions that are in the best interests of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 245, §§1-3 (AMD).]

6. Current ordinances and agreements.

[PL 2007, c. 548, §1 (RP).]

7. Model franchise agreement. The Department of Administrative and Financial Services, Office of Information Technology, or a successor state agency, referred to in this subsection as "the office," shall develop and may update and amend a model franchise agreement for use by any municipality and any cable system operator that mutually choose to adopt the model franchise agreement or any of its provisions. A cable system operator may not modify or amend the model franchise agreement without the consent of the municipality. The office shall make the model franchise agreement available on its publicly accessible website. In the development of the model franchise agreement, the office shall, at a minimum, consider the following issues:

A. Franchise fees; [PL 2007, c. 548, §1 (NEW).]

B. Build-out requirements; [PL 2007, c. 548, §1 (NEW).]

C. Public, educational and governmental access channels and reasonable facility support for such channels; [PL 2007, c. 548, §1 (NEW).]

D. Customer service standards; [PL 2007, c. 548, §1 (NEW).]

E. The disparate needs of the diverse municipalities in this State; and [PL 2007, c. 548, §1 (NEW).]

F. The policy goal of promoting competition in the delivery of cable television service. [PL 2007, c. 548, §1 (NEW).]

This subsection does not allow the office to establish prices for any cable television service or to regulate the content of cable television service.
[PL 2019, c. 245, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 548, §1 (AMD). PL 2019, c. 245, §§1-4 (AMD). PL 2019, c. 308, §1 (AMD).

§3009. Authority of municipal officers to enact ordinances

1. Exclusive authority. The municipal officers have the exclusive authority to enact all traffic ordinances in the municipality, subject to the following provisions.

A. The municipal officers may regulate pedestrian traffic in the public ways, including, but not limited to, setting off portions of a municipality's public ways for sidewalks and regulating their use; providing for the removal of snow and ice from the sidewalks by the owner, occupant or agent having charge of the abutting property; and establishing crosswalks or safety zones for pedestrians.

(1) The violation of any ordinance authorized by this paragraph is a civil violation.

(2) The municipal officers may establish a method by which persons charged with the violation of ordinances governing pedestrian traffic on the public ways may waive all court action by payment of specified fees within stated periods of time. [PL 1991, c. 549, §16 (AMD); PL 1991, c. 549, §17 (AFF).]

B. The municipal officers may regulate the operation of all vehicles in the public ways and on publicly owned property.

(1) The violation of any ordinance authorized by this paragraph is a civil violation.

(2) A municipality may not adopt or enforce an ordinance authorized by this paragraph that is the same as or conflicts with any speed or other traffic control limits imposed by the Department of Transportation pursuant to Title 23 or 29-A. [PL 1999, c. 753, §8 (AMD).]

C. The municipal officers may regulate the parking of motor vehicles on any public way or public parking area, including, but not limited to, providing for the installation of parking meters, providing the fact that any vehicle is illegally parked or is in a metered space when the time signal on the parking meter for that space indicates no parking permitted without the deposit of a coin or coins is prima facie evidence that the vehicle has been parked illegally by the person in whose name the vehicle is registered, and establishing reasonable charges for metered parking.

(1) Illegal parking of a vehicle in violation of any ordinance authorized by this paragraph is a civil violation.

(2) The municipal officers may establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within stated periods of time.

(3) The revenue collected from parking meters must be used:

(a) To purchase, maintain and police the meters;

(b) To construct and maintain public ways;

(c) To acquire, construct, maintain and operate public parking areas; and

(d) For no other purpose.

(4) A vehicle that exhibits a permanent placard, a temporary placard or a disability registration plate issued under Title 29-A, section 521 may park in accordance with Title 29-A, section 521, subsection 12. [PL 2019, c. 648, §2 (AMD).]

D. The following provisions apply to the establishment and policing of parking spaces and access aisles for disabled persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter 5. The municipality shall post a sign adjacent to and visible from each disability parking space established by the municipality. The sign must display the international symbol for accessibility.

(2-A) Enforcement of disability parking restrictions must be in accordance with Title 29-A, section 521, subsection 9-A.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a disability parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a fine of not less than $200 and not more than $500. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

(4) The municipal officers may establish and enforce the time limit for use of a parking space reserved as a disability parking space on a public way or public parking area. [PL 2005, c. 528, §3 (AMD).]

E. The municipal officers may provide for the regulation of motor vehicles as defined in Title 29-A, section 101, subsection 42 on icebound inland lakes during the hours from sunset to sunrise of the following day. The Maine Land Use Planning Commission shall regulate motor vehicles on icebound inland lakes that are completely encompassed by unorganized territories. Motor vehicles on icebound inland lakes that are abutted by an unorganized territory and either one or more municipalities, village corporations or plantations, in any combination, are regulated by those municipalities, village corporations or plantations, as provided in subparagraphs (1) and (2).

No ordinance authorized by this paragraph is valid unless:

(1) Each municipality abutting a lake has enacted an identical local ordinance, in which case the ordinance of any municipality is in effect on the entire lake and any law enforcement officer from any of those municipalities may enforce the ordinance on any portion of the lake; or

(2) In cases where a lake is divided by an easily identifiable boundary into 2 or more nearly separate bodies, each municipality abutting one of the distinguishable portions of the lake has enacted an identical local ordinance. The ordinance of any municipality is in effect only on that distinguishable portion of the lake and any law enforcement officer from any of those municipalities may enforce the ordinance anywhere on that portion of the lake. [PL 1995, c. 65, Pt. A, §129 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF); PL 2011, c. 682, §38 (REV).]

F. The municipal officers may regulate or establish a licensing authority which may regulate rates of fare, routes and standing places of vehicles for hire, except where jurisdiction rests with the Public Utilities Commission and may require an owner or operator of a vehicle for hire to carry a

liability insurance policy in amount and form satisfactory to the licensing authority as a condition precedent to the granting of a license to operate. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 648, §2 (AMD).]

1-A. Transfer of mobile home or modular construction home. To ensure the fair and efficient administration of property taxation, municipal officers may enact an ordinance requiring the owner of a mobile home or modular construction home to notify the municipal assessor, according to such reasonable terms as the ordinance may establish, upon the transfer of a mobile home or modular construction home when that mobile home or modular construction home is situated on land that is not owned by the mobile home or modular home owner.

[PL 1999, c. 427, §1 (NEW).]

2. Powers of village corporation. The officers of a village corporation have the same powers and duties as municipal officers under this section.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Method of enactment; effective date. When enacting ordinances under this section, the municipal officers shall give 7 days' notice of the meeting at which the ordinances are to be proposed in the manner provided for town meetings. Unless otherwise provided, these ordinances take effect immediately.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Enforcement of municipal ordinances.

[PL 2005, c. 53, §2 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A28,C8,C10 (AMD). PL 1989, c. 394, §2 (AMD). PL 1991, c. 549, §16 (AMD). PL 1991, c. 549, §17 (AFF). PL 1995, c. 65, §§A127-129 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 60, §1 (AMD). PL 1997, c. 392, §1 (AMD). PL 1997, c. 673, §3 (AMD). PL 1997, c. 750, §A4 (AMD). PL 1999, c. 127, §A45 (AMD). PL 1999, c. 427, §1 (AMD). PL 1999, c. 753, §8 (AMD). PL 2001, c. 151, §2 (AMD). PL 2003, c. 80, §1 (AMD). PL 2003, c. 117, §1 (AMD). PL 2005, c. 53, §2 (AMD). PL 2005, c. 528, §3 (AMD). PL 2011, c. 682, §38 (REV). PL 2019, c. 648, §2 (AMD).

§3009-A. Enforcement of municipal ordinances

A municipality lacking an organized police department may contract with the State Police, pursuant to Title 25, section 1502, or a sheriff's department for law enforcement services, including, but not limited to, enforcement of ordinances enacted by the municipality. State police officers and deputy sheriffs are authorized to enforce municipal ordinances as agreed to in the contract. [PL 2005, c. 53, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 53, §3 (NEW).

§3010. Consumer rights and protection relating to cable television service

This section applies to every franchisee. For purposes of this section, "franchisee" means a cable system operator that is granted a franchise by a municipality in accordance with section 3008. For purposes of this section, "cable system operator" and "cable television service" have the same meanings as in section 3008, except that "cable system operator" includes a multichannel video programming

distributor as defined in 47 United States Code, Section 522(13). For purposes of this section, "originator" means a local unit of government or the entity to which a local unit of government has assigned responsibility for managing public, educational and governmental access channels. [PL 2019, c. 245, §5 (AMD).]

1. Credits and refunds for interruption of service. Credits and refunds for interruption of cable television service of a franchisee must be as follows.

A. In the event service to any subscriber is interrupted for 6 or more consecutive hours in a 30-day period, the franchisee will, upon request, grant that subscriber a pro rata credit or rebate. [PL 2007, c. 548, §2 (AMD).]

B. An office of the franchisee must be open during usual business hours, have a listed toll-free telephone and be capable of receiving complaints, requests for adjustments and service calls. [PL 2007, c. 548, §2 (AMD).]

C. The franchisee shall provide subscribers with 30 days' advance written notice of an increase in rates, changes in billing practices or the deletion of a channel. [PL 2007, c. 548, §2 (AMD).]

[PL 2007, c. 548, §2 (AMD).]

1-A. Service cancellation. A franchisee must discontinue billing a subscriber for a service within 2 working days after the subscriber requests to cancel that service unless the subscriber unreasonably hinders access by the franchisee to equipment of the franchisee on the premises of the subscriber to which the franchisee must have access to complete the requested cancellation of service. A franchisee shall grant a subscriber a pro rata credit or rebate for the days of the monthly billing period after the cancellation of service if that subscriber requests cancellation of service 3 or more working days before the end of the monthly billing period.

[PL 2019, c. 657, §1 (AMD).]

2. Notice to subscribers regarding quality of service. Notice to subscribers regarding quality of service must be as follows.

A. For each new subscriber, and annually thereafter, every franchisee shall cause to be mailed to each of its subscribers a notice that:

(1) Informs subscribers of how to communicate their views and complaints to the cable system operator, the proper municipal official and the Attorney General;

(2) States the responsibility of the Department of the Attorney General to receive consumer complaints concerning matters other than channel selection and rates;

(3) States the policy regarding and method by which subscribers may request rebates or pro rata credits as described in subsection 1, paragraph A; and

(4) Informs subscribers of their right to request basic-tier, nonpremium programming service and the cost of that service. [PL 2007, c. 548, §2 (AMD).]

B. The notice must be in nontechnical language, understandable by the general public and in a convenient format. On or before January 30th of each year, the franchisee shall certify to the franchising authority and to the Department of the Attorney General that it has distributed the notice during the previous calendar year as required by this section. [PL 2007, c. 548, §2 (AMD).]

[PL 2007, c. 548, §2 (AMD).]

2-A. Notice on subscriber bills; credits and refunds. Every franchisee shall include on each subscriber bill for service a notice regarding the subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with subsection 1 or cancellation of service in accordance with subsection 1-A. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the franchisee to request the pro rata credit or rebate for service interruption or service cancellation. The notice must be in nontechnical

language, understandable by the general public and printed in a prominent location on the bill in boldface type.
[PL 2019, c. 657, §2 (AMD).]

3. Franchise document clearinghouse.
[PL 1999, c. 581, §2 (RP).]

4. Recording subscriber complaints. Recording subscriber complaints must be as follows.

A. Every franchisee shall keep a record or log of all written complaints received regarding quality of service, equipment malfunctions, billing procedure, employee attitude and similar matters. These records must be maintained for a period of 2 years. [PL 2007, c. 548, §2 (AMD).]

B. The record must contain the following information for each complaint received:

(1) Date, time and nature of the complaint;

(2) Name, address and telephone number of the person complaining;

(3) Investigation of the complaint;

(4) Manner and time of resolution of the complaint;

(5) If the complaint regards equipment malfunction or the quality of reception, a report indicating corrective steps taken, with the nature of the problem stated; and

(6) Consistent with subscriber privacy provisions contained in the Cable Communications Policy Act of 1984, Public Law 98-549, every franchisee shall make the logs or records of complaints available to any authorized agent of any franchising authority having a franchise with that franchisee or any authorized agent of a municipality considering a franchise with that franchisee upon request during normal business hours for on-site review. [PL 2007, c. 548, §2 (AMD).]

[PL 2007, c. 548, §2 (AMD).]

5. Franchises. All franchises must be nonexclusive. All franchises must include provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 or related requirements or regulations of the Federal Communications Commission.
[PL 2007, c. 548, §2 (AMD).]

5-A. Public, educational and governmental access channels. A cable system operator shall carry public, educational and governmental access channels on the cable system operator's basic cable or video service offerings or tiers. A cable system operator may not separate public, educational and governmental access channels numerically from other local broadcast channels carried on the cable system operator's basic cable or video service offerings or tiers and, in the event of a franchise license transfer, shall use the same channel numbers for the public, educational and governmental access channels as used for those channels by the incumbent cable system operator, unless prohibited by federal law. After the initial designation of public, educational and governmental access channel numbers, a cable system operator may not change the channel numbers without the agreement of the originator, unless the change is required by federal law.

A cable system operator shall restore a public, educational or governmental access channel that has been moved without the consent of the originator within the 24 months preceding the effective date of this subsection to its original location and channel number within 60 days after the effective date of this subsection.

[PL 2019, c. 245, §6 (NEW).]

5-B. Transmission. A cable system operator shall retransmit public, educational and governmental access channel signals in the format in which they are received from the originator and

at the same signal quality as that provided to all subscribers of the cable television service for local broadcast channels. A cable system operator may not diminish, down convert or otherwise tamper with the signal quality or format provided by the originator. A cable system operator shall deliver a public, educational or governmental access channel signal to the subscriber in a quality and format equivalent to the quality and format of local broadcast channel signals carried on the cable television service if provided as such by the originator. A cable system operator shall carry each public, educational or governmental access channel in both a high definition format and a standard digital format in the same manner as that in which local broadcast channels are provided, unless prohibited by federal law.

A cable system operator, when requested, shall assist in providing the originator with access to the entity that controls the cable television service's electronic program guide so that subscribers may view, select and record public, educational and governmental access channels in the same manner as that in which they view, select and record local broadcast channels. In addition, a cable system operator shall identify public, educational and governmental access channels on the electronic program guide in the same manner as that in which local broadcast channels are identified. This subsection does not obligate a cable system operator to list public, educational and governmental access channel content on channel cards and channel listings. If channels are selected by a viewer through a menu system, the cable system operator shall display the public, educational and governmental access channels' designations in a similar manner as that in which local broadcast channel designations are displayed.

A cable system operator shall make available to the originator a toll-free telephone number with a direct line to a service technician who is familiar with the signal path and equipment associated with public, educational and governmental access channels on the cable television system for resolution of a signal quality problem.
[PL 2019, c. 245, §6 (NEW).]

5-C. Franchise renewals. The franchise renewal process must be conducted in compliance with 47 United States Code, Section 546 and this subsection.

A. A cable system operator shall maintain adequate personnel and resources to respond to municipal requests for renewal information in a timely manner. Failure to respond in a timely manner is a violation of the Maine Unfair Trade Practices Act. [PL 2019, c. 245, §6 (NEW).]

B. If an automatic renewal provision exists in a franchise agreement on the effective date of this subsection, the automatic renewal provision remains in effect until that franchise agreement expires. The cable system operator shall notify the franchising authority of the automatic renewal no later than 36 months in advance of the expiration of the franchise. [PL 2019, c. 245, §6 (NEW).]

C. A municipality may require maps, diagrams, annual reports and franchise fee statements at renewal, which the cable system operator shall make available upon reasonable notice. If information is proprietary, the municipality may execute a nondisclosure agreement with the cable system operator. [PL 2019, c. 245, §6 (NEW).]

[PL 2019, c. 245, §6 (NEW).]

6. Rights of individuals. A cable system operator may not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, race, religion, sex, physical handicap or country of natural origin.
[PL 2007, c. 548, §2 (AMD).]

6-A. Subscriber privacy. A cable system operator may not intrude upon the privacy of a subscriber by installing or using any equipment that allows the cable system operator to observe or to listen to what is occurring in an individual subscriber's household or to monitor the viewing habits of the subscriber without express, prior written consent of the subscriber. A cable system operator may not sell, disclose or otherwise make available, or permit the use of, lists of the names or addresses of its subscribers, or any list or other information that identifies by name or address subscribers or

subscriber viewing habits, to any person or agency for any purpose whatsoever without the prior written consent of the subscriber except that the cable system operator may make such lists available to persons performing services for the cable system operator in connection with its business or operations, such as a billing service, when the availability of such lists is necessary to the performance of such services if, in either case, the persons or entity receiving such lists agree in writing that they will not permit them to be made available to any other party.
[PL 2007, c. 548, §2 (AMD).]

6-B. Late fees. A cable system operator may not charge a late fee or other penalty or charge for late payment of any bill that exceeds 1.5% per month of the amount due in the bill. If the bill includes separate charges for different levels of service, a late fee or other penalty or charge must be calculated on the total amount overdue for all levels of service and may not be calculated separately for each level of service. A payment is not late under this subsection until at least 30 days after those services to which the late fee applies have been received by the consumer.
[PL 2007, c. 548, §2 (AMD).]

7. Penalty. A violation of any provision of this section is a violation of Title 5, chapter 10.
[PL 2007, c. 548, §2 (AMD).]

8. Filing of franchise agreements. A cable system operator that maintains a publicly accessible website shall post on that website a copy of the most recently executed franchise agreement for each franchise that it has been granted by a municipality in the State.
[PL 2007, c. 548, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 352 (NEW). PL 1991, c. 358 (AMD). PL 1991, c. 657, §1 (AMD). PL 1993, c. 219, §1 (AMD). PL 1993, c. 513, §1 (AMD). PL 1993, c. 676, §§1,2 (AMD). PL 1999, c. 581, §2 (AMD). PL 2007, c. 104, §1 (AMD). PL 2007, c. 548, §2 (AMD). PL 2019, c. 245, §§5, 6 (AMD). PL 2019, c. 657, §§1, 2 (AMD).

§3011. Regulation of sport shooting ranges

1. Definition. As used in this section, "sport shooting range" means an area designed and used for archery, skeet and trap shooting or other similar shooting sports and the shooting of rifles, shotguns and pistols.
[PL 1995, c. 231, §2 (NEW).]

2. Limitation. A municipal noise control or other ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance, as long as the range conforms to generally accepted gun safety and shooting range operation practices or is constructed in a manner not reasonably expected to allow a projectile to cross the boundary of the range.
[PL 2015, c. 433, §3 (AMD).]

3. Expansion of activity. Nothing in this section limits the ability of a municipality to regulate the location and construction of a new sport shooting range or a substantial change in use of an existing range on or after September 1, 2016.
[PL 2015, c. 433, §3 (AMD).]

4. Maintenance and improvements. A municipality may not restrict a sport shooting range established prior to September 1, 2016 from performing maintenance or otherwise making improvements to the sport shooting range and its buildings, structures and grounds with regard to:

A. Enhancing public safety and shot containment; [PL 2015, c. 433, §4 (NEW).]

B. Providing access for persons with disabilities and providing rest room facilities; [PL 2015, c. 433, §4 (NEW).]

C. Otherwise maintaining or improving the habitability of buildings and grounds, if such maintenance or improvements are otherwise in compliance with the municipality's generally applicable building codes and zoning ordinances; and [PL 2015, c. 433, §4 (NEW).]

D. Repairing or rebuilding a building or structure damaged by fire, collapse, explosion or an act of God, if such repairs or rebuilding is otherwise in compliance with the municipality's generally applicable building codes and is completed within 2 years of the loss or damage. [PL 2015, c. 433, §4 (NEW).]

[PL 2015, c. 433, §4 (NEW).]

SECTION HISTORY

PL 1995, c. 231, §2 (NEW). PL 2015, c. 433, §§3, 4 (AMD).

§3012. Radio antenna towers; construction in conformance with federal requirements

A municipality may not adopt or enforce any ordinance or regulation that is preempted by a Federal Communications Commission regulation that states that local regulations that involve placement, screening or height of radio antennas based on health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur radio communications and to represent the minimum practicable regulation to accomplish the municipality's legitimate purpose. [PL 1999, c. 269, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 269, §1 (NEW).

§3013. Solar energy devices; ordinances

A municipal ordinance, bylaw or regulation adopted after September 30, 2009 that directly regulates the installation or use of solar energy devices on residential property must comply with the requirements of Title 33, chapter 28-A. For the purposes of this section, "solar energy device" has the same meaning as in Title 33, section 1421, subsection 5. [PL 2009, c. 273, §1 (NEW).]

REVISOR'S NOTE: §3013. Ordinances regarding residency restrictions for sex offenders (As enacted by PL 2009, c. 351, §1 is REALLOCATED TO TITLE 30-A, SECTION 3014)

SECTION HISTORY

RR 2009, c. 1, §21 (RAL). PL 2009, c. 273, §1 (NEW). PL 2009, c. 351, §1 (NEW).

§3014. Ordinances regarding residency restrictions for sex offenders

(REALLOCATED FROM TITLE 30-A, SECTION 3013)

1. Application and scope. The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

[RR 2009, c. 1, §21 (RAL).]

2. Residency restriction ordinance. A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees. [RR 2009, c. 1, §21 (RAL).]

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising:

(1) A public or private elementary, middle or secondary school;

(2) A municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users; or

(3) A municipally owned or state-owned property leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users. [PL 2017, c. 393, §1 (RPR).]

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance. [RR 2009, c. 1, §21 (RAL).]

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15. [RR 2009, c. 1, §21 (RAL).]

[PL 2017, c. 393, §1 (AMD).]

SECTION HISTORY

RR 2009, c. 1, §21 (RAL). PL 2013, c. 161, §1 (AMD). PL 2017, c. 393, §1 (AMD).

SUBPART 5

HEALTH, WELFARE AND IMPROVEMENTS

CHAPTER 151

HEALTH, WELFARE AND IMPROVEMENTS

§3101. Eminent domain power

A municipality may acquire real estate or easements for any public use by using the condemnation procedure for town ways, as provided in Title 23, chapter 304, subject to the following provisions. The limitations set forth in this section do not apply to any taking authorized by any other law. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §29 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Owner resides on land. The municipality may not take any land without the consent of the owner if, at the time of the taking, the owner or the owner's family resides in a dwelling house located on the land.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Limitation on use. Except as provided in paragraph A, land taken under this section may not be used for any purpose other than the purposes for which it was originally taken.

A. Land in any municipality which is taken for a public park may, by authority of a majority vote of the municipal legislative body, be conveyed to the Federal Government to become part of a national park. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Business relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a business or farm, the municipality shall provide payment for moving and related expenses as applicable under Title 23, section 244.
[PL 2005, c. 642, §4 (NEW).]

4. Residence relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a person from a dwelling, the municipality shall provide payment for moving and related expenses, as well as replacement housing as applicable under Title 23, sections 244 to 244-C.
[PL 2005, c. 642, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A29,C8,C10 (AMD). PL 2005, c. 642, §4 (AMD).

§3102. Improvement of navigation and prevention of erosion

A municipality may acquire real estate or easements by the condemnation procedure for town ways, as provided in Title 23, chapter 304, and may contract with the State Government and Federal Government to comply with requirements imposed by the Federal Government in authorizing any project which has been approved by the Governor for improving harbor and river navigation or preventing property damage by erosion or flood. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Municipalities may act jointly. Two or more municipalities may act jointly in performing the operations authorized by this section.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Governor's power. With regard to such a project, the Governor may:

A. Designate a state agency to make any investigation considered necessary; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Provide for the State's payment of up to 1/2 of the contribution required by the Federal Government, when the Legislature has made an appropriation for it; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Make an agreement with the Federal Government to hold and save it harmless from resulting claims. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3103. Natural gas systems

1. Order. To protect the health and safety of the public, municipalities which have natural gas distribution systems may, without hearing, order the gas company or natural gas pipeline company which distributes natural gas to shut down all or part of that system in any emergency. The municipality shall, by ordinance, set the procedure to be followed in ordering the shutdown.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Refusal. If the distributing utility refuses to carry out the order given under authority of subsection 1, then the municipal officers may take appropriate action to ensure that the system or any part of the system is shut down. The municipal officers may prescribe criminal penalties for violation of the order.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3104. Abatement of nuisances

The municipal officers of a municipality may, in the municipality's name, file a complaint in any court of competent jurisdiction requesting the abatement of any public nuisance within the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3105. Small borrow pits

1. Requirements. The following provisions apply to any borrow pit not otherwise within the jurisdiction of the Department of Environmental Protection, under Title 38, chapter 3, subchapter I, article 6, and which is not subject to a municipal ordinance enacted under subsection 2.

A. All borrow pits subject to this subsection shall comply with the following requirements.

(1) The average slope of any cut bank measured from a point located 10 feet from the boundary of any abutting property to the bottom of the cut bank in the pit shall not exceed a horizontal to vertical ratio of 2:1. The owner of the borrow pit is responsible for maintaining this condition.

(2) The top of the cut bank of the borrow pit shall, at no time, be closer than 10 feet from the property boundary of any abutting landowner. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Upon request of any owner of land abutting any borrow pit, the municipal officers shall conduct an inspection of the borrow pit to ascertain compliance with this subsection.

(1) The municipal officers may request the Department of Transportation, Bureau of Project Development, Construction Division, to inspect the borrow pit in place of the municipal inspection. The Construction Division shall conduct an inspection of the borrow pit in question when requested to do so by the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The person or persons conducting the inspection shall report their findings to the municipal officers, the abutting landowner initiating the request and the owner of the borrow pit. Measurements shall be made from the property line designated by the abutting property owner initiating the request. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106

(NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. If the borrow pit is in violation of this subsection, the owner is liable for the cost of the inspection. If the borrow pit is not in violation of this subsection, the abutting landowner who made the request is liable for the cost of the inspection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Upon notification of any violation under this subsection, the owner of the borrow pit shall bring the borrow pit into compliance with this subsection within 60 days. The municipal officers may require a shorter compliance period if they find that the violation poses an imminent danger to public safety or private property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any owner of a borrow pit who fails to bring the borrow pit into compliance with this subsection is subject to a civil penalty not to exceed $50 per day for every day elapsing after the expiration of the compliance schedule established under paragraph E, payable to the municipality in which the borrow pit is located, to be recovered in a civil action brought by the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Municipal jurisdiction. A municipality may enact ordinances under its home rule authority regulating the siting, construction or operation of borrow pits not within the jurisdiction of the Department of Environmental Protection, under Title 38, chapter 3, subchapter I, article 6. The ordinance must, at a minimum, include the requirements of subsection 1, paragraph A, but may include standards which exceed those requirements.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3106. Disposition of abandoned property

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

A. "Covered property" means all tangible property, other than tangible property described in Title 33, section 2065, located in or on real estate acquired by a political subdivision through tax delinquency proceedings pursuant to Title 36 or through any similar procedure created by statute for the collection of unpaid taxes, assessments, expenses or charges. "Covered property" includes all tangible property, other than tangible property described in Title 33, section 2065, located in or on real estate that has been determined to be a dangerous building pursuant to Title 17, chapter 91, subchapter 4. [PL 2019, c. 498, §19 (AMD).]

B. "Political subdivision" has the same meaning as in section 2252. [PL 1999, c. 667, §1 (NEW).]

[PL 2019, c. 498, §19 (AMD).]

2. Procedure. A political subdivision may dispose of covered property that has been abandoned in accordance with this section.

A. The municipal officers in the case of a city, town or plantation, the county commissioners in the case of a county and in all other cases the governing board of a political subdivision, or the designee of any of these, may give written notice to the owner or owners of covered property, if known, instructing the owner or owners to remove the covered property from the real estate in or on which it is located within 21 days after receipt of the notice. [PL 1999, c. 667, §1 (NEW).]

B. Notice must be mailed by certified mail, return receipt requested, to the owner or owners of the covered property. Notice is sufficient under this paragraph if the signed receipt is returned or the certified mail is returned as refused by the recipient. [PL 1999, c. 667, §1 (NEW).]

C. If sufficient notice was not given under paragraph B or if, with reasonable diligence, the identity or the address of an owner or owners can not be determined, the notice is sufficient if it is not mailed but published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the covered property is located. [PL 1999, c. 667, §1 (NEW).]

D. The political subdivision has no responsibility to safeguard or otherwise preserve or protect the covered property pending restoration to its owner or other disposal. [PL 1999, c. 667, §1 (NEW).]

[PL 1999, c. 667, §1 (NEW).]

3. Content of notice. Whether mailed or published, notice need not include a roster or inventory of the covered property, but need only state that tangible personal property that may belong to the addressee, owner or former owner is located in or on real property within the ownership or control of the political subdivision, and that on contact with the originating political subdivision, arrangements can be made for removal of covered property belonging to that addressee, owner or former owner.

[PL 1999, c. 667, §1 (NEW).]

4. Disposal of covered property. If the covered property is not claimed within 21 days after notice is given under subsection 2 or if the owner or owners have claimed the property within the 21 days but have not taken possession of the property within 10 days of claiming it, the political subdivision shall:

A. Sell the covered property in a commercially reasonable manner; or [PL 1999, c. 667, §1 (NEW).]

B. If the property has no market value, otherwise dispose of the property. [PL 1999, c. 667, §1 (NEW).]

[PL 1999, c. 667, §1 (NEW).]

5. Deposit of funds. After the sale of the property, the political subdivision may apply proceeds from the sale to unpaid taxes, assessments and expenses of storage, notice and sale. Any balance and the records of the sale must be reported and delivered to the Treasurer of State in accordance with Title 33, section 1959, subsection 1.

[PL 1999, c. 667, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 667, §1 (NEW). PL 2019, c. 498, §19 (AMD).

§3106-A. Municipal authority to manage abandoned mobile homes

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

A. "Mobile home" has the same meaning as in Title 10, section 9091, subsection 1. [PL 2015, c. 244, §1 (NEW).]

B. "Property defect" means a condition that, in the judgment of the municipality, contributes to blight as a result of the continued lack of care, maintenance or security of a property. [PL 2015, c. 244, §1 (NEW).]

C. "Responsible party" includes the owner or owners of record for a mobile home, not including a mortgagee. [PL 2015, c. 244, §1 (NEW).]

[PL 2015, c. 244, §1 (NEW).]

2. Municipal authority. In accordance with this section, the municipal officers or their designees may regulate the care, maintenance and security of a mobile home determined to be abandoned under subsection 4 if the responsible parties fail to address the property defects after notice and an opportunity to comply, and the municipality may recover its costs from the responsible parties. The authority established by this section may not be construed to replace or supplant any municipal authority to provide for basic necessities under Title 14, section 6026-A or address dangerous buildings under Title 17, chapter 91, subchapter 4. Municipal action under this section may not be interpreted to bestow any responsibility on the municipality to safeguard or otherwise preserve or protect an abandoned mobile home. A municipality is authorized to take corrective action in accordance with this section, up to and including taking possession of and disposing of an abandoned mobile home and all related personal property.

[PL 2015, c. 244, §1 (NEW).]

3. Notice of foreclosure; designation of representative. When initiating a foreclosure action on a property, a foreclosing mortgagee shall notify the municipality where the property is situated and designate an in-state representative responsible for responding to municipal inquiries regarding the property. The foreclosing mortgagee shall provide the municipality where the property is located with the contact information for the mortgagee's in-state representative. For the purposes of this subsection, "contact information" means both a mailing address and a direct telephone number with a functioning voice mailbox, as well as the in-state representative's direct e-mail address when available.

[PL 2015, c. 244, §1 (NEW).]

4. Determination of abandonment. Before a municipality may initiate corrective measures to address property defects pursuant to this section, either a court or the municipal officers must have determined that the mobile home has been abandoned according to the evidence of abandonment described in Title 14, section 6326, subsection 2, paragraph A, C, D, E, F, G or H.

A. The municipal officers shall provide notice to the responsible party and hold a hearing before making a determination that a mobile home has been abandoned. The notice of hearing must:

(1) State the scheduled date, time and location of the hearing; and

(2) Inform the responsible party that, upon a finding of abandonment, the municipality may require the responsible party to correct any property defects within 60 days of issuing a notice to correct. [PL 2015, c. 244, §1 (NEW).]

B. A hearing under paragraph A must be held not less than 7 days after receipt or publication of the notice. [PL 2015, c. 244, §1 (NEW).]

C. An order issued by the municipality determining that a mobile home is abandoned may be combined with the notice to correct set forth in subsection 5. [PL 2015, c. 244, §1 (NEW).]

[PL 2015, c. 244, §1 (NEW).]

5. Notice to correct. Upon a finding of abandonment, the municipal officers may give written notice to the responsible party to correct the property defect. The municipal notice to correct under this subsection must:

A. Identify the property defect; [PL 2015, c. 244, §1 (NEW).]

B. State the municipality's intention to take appropriate preventive or corrective measures to address the property defect; [PL 2015, c. 244, §1 (NEW).]

C. Identify the measures the municipality will take if the responsible party has not remedied the property defect identified within 60 days of the notice to correct; [PL 2015, c. 244, §1 (NEW).]

D. State the municipality's intention to subsequently recover the municipality's direct, legal and administrative costs from the responsible party; [PL 2015, c. 244, §1 (NEW).]

E. Inform the responsible party of the responsible party's ability to avert the municipality's actions by remedying the property defect as identified in the notice; and [PL 2015, c. 244, §1 (NEW).]

F. State the municipality's intention to take possession of and dispose of the mobile home and all related personal property if the responsible party has not remedied the property defect identified within 60 days of the notice to correct. [PL 2015, c. 244, §1 (NEW).]

[PL 2015, c. 244, §1 (NEW).]

6. Notice process. A notice required to be given under this section is governed by the following.

A. Notice must be hand-delivered or mailed by certified mail, return receipt requested, to the responsible party. Notice is sufficient if the signed receipt is returned or the certified mail is returned as refused by the recipient. [PL 2015, c. 244, §1 (NEW).]

B. If the name or address of the responsible party cannot be determined with reasonable diligence, or notice was otherwise not successful pursuant to paragraph A, the notice must be published twice consecutively in a daily or weekly newspaper having general circulation in the municipality in which the mobile home is located. [PL 2015, c. 244, §1 (NEW).]

[PL 2015, c. 244, §1 (NEW).]

7. Costs. A responsible party is jointly and severally liable to a municipality for its direct, legal and administrative costs incurred while remedying or attempting to remedy the property defect pursuant to this section. The responsible party shall reimburse the municipality for its costs within 30 days after demand, or a special tax may be assessed against the property in the amount of those costs and may be collected in the same manner as other state, county and municipal taxes are collected.

[PL 2015, c. 244, §1 (NEW).]

8. Appeals. An appeal to a determination of abandonment by the municipal officers pursuant to subsection 4 is to the Superior Court pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B.

[PL 2015, c. 244, §1 (NEW).]

REVISOR'S NOTE: §3106-A. Municipal authority to manage abandoned properties (As enacted by PL 2015, c. 276, §1 is REALLOCATED TO TITLE 30-A, SECTION 3106-B)

SECTION HISTORY

RR 2015, c. 1, §35 (RAL). PL 2015, c. 244, §1 (NEW). PL 2015, c. 276, §1 (NEW).

§3106-B. Municipal authority to manage abandoned properties

(REALLOCATED FROM TITLE 30-A, SECTION 3106-A)

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

A. "Property defects" means the conditions that, in the judgment of the municipality, contribute to blight as a result of the continued lack of care, maintenance or security of a property. [RR 2015, c. 1, §35 (RAL).]

B. "Responsible parties" means the owner or owners of record. [RR 2015, c. 1, §35 (RAL).]

[RR 2015, c. 1, §35 (RAL).]

2. Municipal authority. In accordance with this section, the municipal officers or the officers' designee may regulate the care, maintenance and security of property determined to be abandoned under subsection 4, if the responsible parties fail to address the property defects after notice and an opportunity to comply. The municipality may recover its costs from the responsible parties. The authorities established by this section may not be construed to replace or supplant any municipal authority to provide for basic necessities under Title 14, section 6026-A or address dangerous properties under Title 17, chapter 91, subchapter 4. Municipal action under this section may not be interpreted to bestow any responsibility on the municipality to safeguard or otherwise preserve or protect abandoned property.
[RR 2015, c. 1, §35 (RAL).]

3. Notice of foreclosure; designation of representative. When initiating a foreclosure action on a property, a foreclosing mortgagee shall notify the municipality where the property is situated and designate an in-state representative responsible for the property.
[RR 2015, c. 1, §35 (RAL).]

4. Determination of abandonment. Before a municipality may initiate corrective action measures to address property defects pursuant to this section, either a court or the municipal officers must have determined that the property has been abandoned according to the evidence of abandonment described in Title 14, section 6326, subsection 2, paragraph A, C, D, E, F, G or H.

A. The municipal officers shall provide notice to the responsible parties and hold a hearing before making a determination that a property has been abandoned. The notice of hearing must:

(1) State the scheduled date, time and location of the hearing; and

(2) Inform the responsible parties that, upon a finding of abandonment, the municipality may require the responsible parties to correct any property defects within 30 days of the issuance of a notice to correct or, if a permit is required to correct property defects, the municipality may require the responsible parties to promptly seek a permit and to correct the defects within 30 days of the issuance of the permit. [RR 2015, c. 1, §35 (RAL).]

B. A hearing under paragraph A may be held no less than 7 days after receipt or publication of the notice. [RR 2015, c. 1, §35 (RAL).]

C. An order issued by the municipality determining that a property is abandoned may be combined with the notice to correct set forth in subsection 5. [RR 2015, c. 1, §35 (RAL).]
[RR 2015, c. 1, §35 (RAL).]

5. Notice to correct. Upon a finding of abandonment, the municipal officers may give written notice to the responsible parties to correct identified property defects. The municipal notice to correct under this section must:

A. Identify the property defects; [RR 2015, c. 1, §35 (RAL).]

B. State the municipality's intention to take appropriate preventive or corrective measures to address the property defects; [RR 2015, c. 1, §35 (RAL).]

C. Identify the measures the municipality will take if the responsible parties have not remedied the property defects identified within 30 days of the notice to correct; [RR 2015, c. 1, §35 (RAL).]

D. State the municipality's intention to subsequently recover the municipality's direct, legal and administrative costs from the responsible parties; and [RR 2015, c. 1, §35 (RAL).]

E. Inform the responsible parties of their ability to avert the municipality's actions by remedying the property defects as identified in the notice. [RR 2015, c. 1, §35 (RAL).]
[RR 2015, c. 1, §35 (RAL).]

6. Notice process. A notice required to be given under this section is governed by the following.

A. Notice must be hand-delivered or mailed by certified mail, return receipt requested, to the responsible parties. Notice is sufficient if the signed receipt is returned or the certified mail is returned as refused by the recipient. [RR 2015, c. 1, §35 (RAL).]

B. If the address of the responsible parties cannot be determined with reasonable diligence, the notice is sufficient if it is published twice consecutively in a daily or weekly newspaper having general circulation in the municipality in which the property is located. [RR 2015, c. 1, §35 (RAL).]

[RR 2015, c. 1, §35 (RAL).]

7. In-state representatives. Mortgagees who have initiated a foreclosure on a property shall designate a representative whose place of business is within this State to be responsible for responding to municipal inquiries regarding the property. The foreclosing mortgagee shall provide the municipality in which the property is located with the contact information for the mortgagee's in-state representative. For the purposes of this subsection, "contact information" means both a mailing address and a direct telephone number with a functioning voice mailbox, as well as the responsible party's direct e-mail address when available.

[RR 2015, c. 1, §35 (RAL).]

8. Recovery of costs. All responsible parties are jointly and severally liable to a municipality for its direct, legal and administrative costs incurred while remedying or attempting to remedy the property defects pursuant to this section. The responsible parties shall reimburse the municipality for its costs within 30 days after demand, or a special tax may be assessed against the property in the amount of those costs and may be collected in the same manner as other state, county and municipal taxes are collected.

[RR 2015, c. 1, §35 (RAL).]

9. Appeals. An appeal from a finding of abandonment by the municipal officers pursuant to this section is to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B.

[RR 2015, c. 1, §35 (RAL).]

SECTION HISTORY

RR 2015, c. 1, §35 (RAL).

§3107. Abandoned cemeteries

1. Abandoned cemetery. For purposes of this section, "abandoned cemetery" means a cemetery in which no burial has been made in the previous 40 years and the lots or grave sites of which have not been maintained within the previous 10 years, except for maintenance rendered by the municipality in which the cemetery is located.

[PL 2005, c. 225, §1 (NEW).]

2. Acquisition by municipality. A municipality may acquire an abandoned cemetery, including ownership of any unoccupied lots or grave sites in the cemetery. The municipality shall use due diligence in identifying any owners of the abandoned cemetery or any of the cemetery's unoccupied lots or grave sites and provide notice to the owners of the municipality's intention to acquire the abandoned cemetery. If a municipality cannot locate an owner pursuant to this subsection, the municipality shall publish notice of its intention to acquire the abandoned cemetery for 3 successive weeks in a newspaper having general circulation in the county in which the municipality is located.

[PL 2005, c. 225, §1 (NEW).]

3. Notice. The notice required in subsection 2 must give a basic description of the abandoned cemetery by referencing the municipality's tax maps, set a date and place where objections to the acquisition of the abandoned cemetery by the municipality will be received and heard and, if there are

unoccupied lots or grave sites in the abandoned cemetery, state the municipality's intention to acquire the unoccupied lots or grave sites.
[PL 2005, c. 225, §1 (NEW).]

4. Reassertion by owner. If an owner who receives notice under subsection 2 objects to the municipality's acquisition of the abandoned cemetery or an unoccupied lot or grave site in the cemetery, the owner must in writing object and reassert the owner's right of ownership over the abandoned cemetery or unoccupied lot or grave site within 14 days of the date of the notice. An owner who reasserts ownership rights under this subsection shall promptly conform to all municipal ordinances concerning the abandoned cemetery or unoccupied lot or gravesite.
[PL 2005, c. 225, §1 (NEW).]

5. Reversion to municipality. Title to an abandoned cemetery and any unoccupied lots or grave sites described in the notice required under subsection 2 reverts to the municipality if an objection by an owner of the abandoned cemetery or unoccupied lot or grave site within the cemetery is not received by the 15th day after notice is sent to an identified owner or the last notice is published in a newspaper of general circulation as required under subsection 2. After title has reverted pursuant to this subsection, the municipality shall record a confirmation of the acquisition of the abandoned cemetery, including a basic description of the cemetery referencing the municipality's tax maps, in the registry of deeds in the county in which the cemetery is located.
[PL 2005, c. 225, §1 (NEW).]

6. Maintenance of title and characteristics. Once title to an abandoned cemetery has been recorded by a municipality, that municipality shall maintain the title in perpetuity and may never transfer title to the cemetery. The municipality shall also maintain the characteristics of the cemetery with no change in use of the cemetery land.
[PL 2005, c. 225, §1 (NEW).]

7. Survey and preservation plan. Prior to acquiring an abandoned cemetery under this section, a municipality may cause a survey to be done of the cemetery for which it is acquiring title in order to ascertain the true extent of the cemetery. The municipality may develop a preservation plan with guidance from a local cemetery corporation or association and local or state archaeologists.
[PL 2005, c. 225, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 225, §1 (NEW).

§3108. Asthma inhalers and epinephrine autoinjectors

Municipal employees and volunteers that operate or assist in any municipal recreational program or camp may receive training on how to administer asthma inhalers and epinephrine autoinjectors as defined in Title 22, section 2150-F, subsection 3. Municipal employees and volunteers may possess and administer prescribed asthma inhalers and epinephrine autoinjectors in order to provide emergency aid. [PL 2019, c. 560, §5 (AMD).]

SECTION HISTORY

PL 2007, c. 588, §1 (NEW). PL 2019, c. 560, §5 (AMD).

§3109. Broadcast television translator stations

A municipality may receive federal grants or contributions for the construction and operation of a broadcast television translator station as described in 47 Code of Federal Regulations, Section 74.732 (2008). Two or more municipalities may act jointly in performing the operations authorized by this section. [PL 2009, c. 117, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 117, §2 (NEW).

§3110. Road-naming disputes

Unless otherwise provided by local ordinance or charter, when there is a dispute over the naming of a town way, private way or private road for E-9-1-1 purposes, the decision of the municipal officers is final. [PL 2009, c. 477, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 477, §1 (NEW).

CHAPTER 153

MUNICIPAL FIRE PROTECTION

§3151. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Municipal fire department. "Municipal fire department" means an organized firefighting unit established under municipal charter, ordinance or bylaw to prevent and extinguish fires and, if authorized by charter, ordinance or bylaw, to provide emergency services.
[PL 1999, c. 570, §1 (AMD).]

1-A. Provide emergency services. "Provide emergency services" means to respond to and manage other public safety emergencies, including, but not limited to, medical emergencies, hazardous materials incidents or natural or man-made disasters.
[PL 1999, c. 570, §2 (NEW).]

2. Municipal firefighter. "Municipal firefighter" means an active member, whether full-time, part-time or on call, of a municipal fire department, who aids in the extinguishment of fires or an individual who receives compensation from the municipality for aiding in the extinguishment of fires.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Volunteer fire association. "Volunteer fire association" means an organized firefighting unit incorporated under Title 13, chapter 81, or Title 13-B, and which is officially recognized by the municipality.

A. Any volunteer fire association incorporated under either Title 13, chapter 81, or Title 13-B, on or after January 1, 1978, shall be considered incorporated for the purposes of this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The appropriation of money by a municipality toward the support of an organized firefighting unit incorporated under Title 13, chapter 81, or Title 13-B, is prima facie evidence of official recognition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Volunteer firefighter. "Volunteer firefighter" means an active member of a volunteer fire association who receives no compensation from the municipality other than injury and death benefits.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 570, §§1,2 (AMD).

§3152. Fire protection

1. Methods of protection. A municipality may provide fire protection by:

A. Maintaining a municipal fire department; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Supporting a volunteer fire association; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Contracting with other governmental units for fire protection services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Fire protection zones. A municipality may establish administrative areas of the municipality for firefighting and fire protection purposes, to be served by one fire department or volunteer fire association, which shall be called "fire protection zones." Fire protection zones must be established by the vote of the municipal legislative body or by regulations adopted by the municipal officers if the municipal legislative body so provides.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3153. Fire chiefs

Notwithstanding the method of fire protection services provided by a municipality, a fire chief shall be appointed in each municipality, unless the municipality provides by vote of its legislative body for the election of a municipal fire chief by the members of the municipal fire department or volunteer association, or provides that the voters of the municipality will elect a municipal fire chief at the regular municipal election or town meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

In municipalities served by more than one volunteer association or municipal fire department, the municipality may by vote of its legislative body provide for the election of a fire chief by the members of each fire department or association of the municipality, but no more than one fire chief may be elected within each fire protection zone. When more than one fire chief is provided for in a municipality, each fire chief shall exercise in the fire chief's fire protection zone all powers and duties of a municipal fire chief and shall control and direct all municipal and volunteer firefighters in the performance of firefighting operations within the fire chief's fire protection zone, except as provided in this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Term; compensation. Unless otherwise provided by contract, charter or ordinance, fire chiefs shall be appointed for an indefinite term. The municipal officers shall determine the compensation of the fire chief.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties. The fire chief shall:

A. Direct and control all municipal and volunteer firefighters in the performance of firefighting operations within the municipality except as provided in Titles 12 and 25; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Provide a training program for firefighters within the municipality in cooperation with appropriate governmental agencies; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Provide for the maintenance of all fire equipment owned by the municipality and buildings used by the municipal fire department; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Prepare and submit annually to the chief administrative official of the municipality a budget relating to fire protection activities; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Suppress disorder and tumult at the scene of a fire and generally direct all operations to prevent further destruction and damage. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Powers. The fire chief may:

A. Unless otherwise provided by charter or ordinance, employ all municipal firefighters, appoint a deputy and other officers in a municipal fire department and remove them for cause after notice and hearing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. With the approval of the municipal officers, adopt administrative regulations relating to municipal fire protection, consistent with this chapter and municipal ordinances; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Pull down and demolish structures and appurtenances if the fire chief judges it necessary to prevent the spread of fire. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3154. Firefighters

1. Duties. Firefighters are under a duty to extinguish all fires to which they are called, to protect lives and property endangered by fires and to carry out all other related activities as directed by the fire chief.

A. A firefighter may use a reasonable degree of nondeadly force when the firefighter reasonably believes that this force is necessary to carry out the duties under this subsection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Training. All firefighters shall attend training sessions as scheduled by the fire chief.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Medical examinations. No person hired after June 28, 1974 may serve as a full-time member of a municipal fire department unless the person has undergone a complete preemployment medical examination; nor may the person serve as a full-time member of a municipal fire department if, in the opinion of competent medical authority after examination, the person is not capable of performing the required duties.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3155. Municipal liability; demolished buildings

If the pulling down or demolition of any structure or appurtenance, except that in which the fire originated, is used to stop the spread of fire, the owner of that structure or appurtenance may recover reasonable compensation for its destruction from the municipality in a civil action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3156. Aid to other municipalities

Unless otherwise provided by charter or ordinance, the municipal officers may authorize the municipal fire department or, if separate, employees who provide emergency services to aid with any public safety emergencies in other municipalities by providing as needed all the municipal fire department's available resources or, if separate, available employees who provide emergency services. Municipal and volunteer firefighters and employees who provide emergency services when assisting other municipalities have the same privileges and immunities as when acting in their own municipality. Any municipality may compensate an aiding municipality or volunteer fire association for damage to

the aiding department's or association's property and to any firefighter or to the firefighter's surviving spouse or dependents because of injury or death sustained in the course of rendering aid to that municipality. [PL 2005, c. 519, Pt. KKK, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A30,C8,C10 (AMD). PL 1999, c. 570, §3 (AMD). PL 2005, c. 519, §KKK1 (AMD).

§3157. Automotive fire apparatus

All new automotive fire apparatus purchased by municipal fire departments or volunteer fire associations with public money must be constructed and equipped in conformance with the standards set forth in the edition of National Fire Protection, Pamphlet #1901, Standards for Automotive Fire Apparatus, which is in effect on the date of the purchase agreement. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

A municipality or volunteer fire association which receives delivery of automotive fire apparatus not in conformance with these standards may, in addition to its other remedies, recover in a civil action a penalty from the seller in an amount equal to 10% of the purchase price of the apparatus. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 155

MUNICIPAL FORESTS

§3201. Municipal forests

Under its home rule authority, a municipality may acquire lands for the purpose of forestation or for reclaiming and planting forest trees on such lands. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3202. National forest funds; use for schools and roads

All sums received by the State from the Federal Government on account of the national forests in the State established under the "Weeks Act," Public Law 61-435, and amendments to that Act, shall be distributed as follows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Apportionment and payment. The Treasurer of State shall first apportion these funds among the municipalities and unorganized places in which the national forest is located, in proportion to the area of the national forest in each, as determined by the Forest Service of the United States Department of Agriculture. The Treasurer of State shall pay the apportioned sums, within 60 days of receipt of the funds, to the treasurers of the appropriate municipalities.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Expenditure by municipalities. All sums apportioned and paid to municipalities under subsection 1 must be expended for the benefit of the public schools and public roads of the municipality, in addition to the sums required by law to be raised for those purposes, in the manner determined by appropriations made by the municipal legislative body.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Expenditures by counties. All sums apportioned paid to unorganized places under subsection 1 must be expended for the benefit of public schools and public roads in the counties in which those places are located, in the manner determined by the Governor.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3203. Profits from state-owned land

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 217, §2 (RP).

CHAPTER 157

PARKS, TREES AND PLAYGROUNDS

SUBCHAPTER 1

GENERAL PROVISIONS

§3252. Preservation of trees along public ways and water

1. Creation of preserved lands. For the purpose of preserving and increasing the growth of trees on land abutting any public way or located on uplands adjoining any river or other body of water, municipalities and municipal officers, acting under section 3101, may set aside and define such land, not exceeding 5 rods in width. Any municipality may appropriate money for the purposes of this section.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Regulation of lands. All trees and shrubs growing on the land set aside under subsection 1 shall be held as for park purposes. Except as provided in this section, no owner in fee of this land or any other person may injure, remove or destroy these trees or shrubs. Municipal officers may grant written license to the owner to do cutting and clearing on the land when consistent with the preservation and general improvement of the growth on the land.

Except as provided, this section does not restrict the owner's use and enjoyment of the land or authorize any person to enter on the land, except for municipal officers and conservation commissioners and their agents for the purposes of this section.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Proceedings; compensation. All proceedings relating to estimating and awarding damages under this section are governed by section 3101.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Public ways, private ways and buildings. Provided the written consent of the municipal officers is obtained first, this section does not:

A. Prevent the taking and clearing of any of the land set aside under subsection 1 that is necessary for public ways; nor [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Abridge the right of the owner or the owner's tenant to lay out a private way across that land or to clear and improve any of the land that is necessary for actual building purposes.

(1) If the municipal officers refuse to give consent for laying out a private way or for cutting and clearing any of the land that is necessary for immediate building purposes, when requested to do so in writing, that refusal is ground for a further award of damages to the owner as provided in subsection 3. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Violation. Whoever violates this section:

A. Commits a civil violation for which a forfeiture of not more than $100 may be adjudged; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Is liable to a civil action, brought by the conservation commissioners or by a taxpayer in the name and for the benefit of the municipality in which the offense is committed, for all damages sustained. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3253. Safe zones designated by municipality

A municipality may designate an area of the municipality that is frequented by minors as a safe zone under Title 17-A, section 1101, subsection 23. A safe zone designated pursuant to this section must be conspicuously marked by the municipality with an informational sign using wording provided by the Commissioner of Public Safety. [PL 2005, c. 415, §5 (NEW).]

SECTION HISTORY

PL 2005, c. 415, §5 (NEW).

SUBCHAPTER 2

CONSERVATION COMMISSIONERS

§3261. Conservation commissions

Unless otherwise provided under their home rule authority, municipalities may establish conservation commissions as provided in this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Appointment of commissioners. The municipal officers may appoint at least 3, but not more than 7, conservation commissioners. Members shall initially be appointed for terms of one, 2 and 3 years, such that the terms of approximately 1/3 of the members will expire each year. Their successors shall be appointed for terms of 3 years each. Members shall serve until the appointment of their successors.

The commission may recommend to the municipal officers that associate members be appointed to assist the commission as the commission requires. Associate members are nonvoting members. Their terms of office shall be for one, 2 or 3 years.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties of commission. The commission shall:

A. Keep records of its meetings and activities and make an annual report to the municipality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Conduct research, in conjunction with the planning board, if any, into the local land areas; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Seek to coordinate the activities of conservation bodies organized for similar purposes; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Keep an index of all open areas within the municipality, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas. The commission may recommend to the municipal officers or any municipal body or board, or any body politic or public agency of the State, a program for the better protection, development or use of those areas, which may include the acquisition of conservation easements.

(1) Any body politic or public agency of the State conducting planning operations with respect to open areas within a municipality having a conservation commission shall notify that conservation commission of all plans and planning operations at least 30 days before implementing any action under that plan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Powers of commission. The commission may:

A. Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it considers necessary; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all money appropriated for the improvement of those parks; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Acquire land in the municipality's name for any of the purposes set forth in this section with the approval of the municipal legislative body; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Receive gifts in the municipality's name for any of the commission's purposes and shall administer the gift for those purposes subject to the terms of the gift. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Park commission under previous law. This section does not require a municipality which has previously created a park commission under prior law to establish a conservation commission. Any such park commission previously created may continue to operate as originally established.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3262. Failure to elect; function of municipal officers

If any municipality fails to appoint a board of conservation commissioners, the municipal officers shall have and exercise all the powers and duties of the commissioners, except as provided in sections 3263 and 3264 and subchapter IV. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3263. Supervision of shade trees

All public shade trees may be under the care and control of conservation commissioners in municipalities which appoint those commissioners under this subchapter. The conservation commissioners may have the powers and duties of tree wardens in regard to those trees. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3264. Park commissioners

1. Park commissioners; appointment. Notwithstanding section 3261, municipalities may elect or appoint 5 park commissioners, initially to hold office for one, 2, 3, 4 and 5 years, respectively. Their successors shall be appointed for terms of 5 years each. Members shall serve until the appointment of their successors.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties. The park commissioners shall:

A. Have the care and superintendence of the public parks; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Subject to the approval of the municipal officers, direct the expenditure of all money appropriated or available for the improvement of those parks. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 3

ENERGY COMMISSIONERS

§3271. Energy commissions

Unless otherwise provided under their home rule authority, municipalities may establish energy commissions as provided in this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Appointment of commissioners. The municipal officers may appoint at least 3, but not more than 7, energy commissioners. Members shall initially be appointed for terms of one, 2 and 3 years, such that the terms of approximately 1/3 of the members will expire each year. Their successors shall be appointed for terms of 3 years each. Members shall serve until the appointment of their successors.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Combination with conservation commission. Notwithstanding sections 3261 to 3264, municipal officials may combine the duties of a municipal energy commission with those of an existing conservation commission to create an entity with responsibilities for a wide range of energy and conservation issues.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3272. Purpose; activities

1. Purposes. The purposes of the municipal energy commission may include the following:

A. To study and recommend energy policies to the municipal officers, body or board and to the planning board, if any; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To reduce energy consumption in the municipality by encouraging energy conservation and better energy management; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To promote efforts to increase community energy self-sufficiency through the development of safe, efficient and renewable energy resources; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. To provide leadership and direction for local energy conservation education; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. To work with other public and private organizations to secure funding and other resources for local energy projects and employment; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. To coordinate their efforts with those of other local, regional and state organizations; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. To serve other purposes related to energy as specified by the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Activities. The commission may undertake the following activities.

A. The commission may seek technical assistance from the Department of Economic and Community Development. That department shall notify local energy commissions, in writing, of plans and projects that may affect those commissions, if the commission so requests. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. DD, §34 (AMD).]

B. In conjunction with the planning board, if any, the commission may promote and conduct research, in furtherance of its purposes, in the following areas:

(1) Public transportation;

(2) Van pools and car pools;

(3) Recycling;

(4) Solar power;

(5) Cogeneration;

(6) Hydro-electric power;

(7) Energy audits;

(8) Energy conservation; and

(9) Other activities that will make the municipality more energy self-sufficient through the use of renewable energy resources. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. DD, §34 (AMD).]

3. Notice of formation; records, annual report. The commission shall notify the Department of Economic and Community Development of its formation. The commission shall keep records of its meetings and activities and shall make an annual report to the municipality.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 501, Pt. DD, §35 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 501, §§DD34,DD35 (AMD).

SUBCHAPTER 4

PUBLIC SHADE TREES

§3281. Public shade trees

All trees within or upon the limits of any highway are public shade trees. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3282. Appointment and duties of tree wardens

The municipal officers of municipalities which have not appointed conservation commissioners under subchapter II may annually appoint one or more tree wardens who have the care and control of all public shade trees upon and along the highways and in the parks of the municipality and all streets within any village limits. They shall enforce all laws relating to the preservation of those trees. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3283. Removal of trees

Public shade trees may be trimmed, cut down or removed by the owner of the land only with the consent of a tree warden or the conservation commission. Public shade trees may be trimmed, cut down or removed by a tree warden or conservation commissioner only with the consent of the landowner. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Trimming, cutting or removal authorized. This section does not prevent the trimming, cutting or removal of trees when the trimming, cutting or removal is ordered by proper authority to:

A. Lay out, alter or widen the location of highways; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Lessen the danger of travel on highways; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Suppress tree pests or insects. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3284. Injury or destruction to trees; penalty

Whoever trims, cuts or otherwise damages or destroys a public shade tree commits a civil violation for which a forfeiture of not less than $5 nor more than $25 may be adjudged. The forfeiture shall be paid to the municipality in which the offense is committed and expended by that municipality for the purposes specified in this subchapter and section 3263. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 5

FUNDS

§3291. Cutting and removal of trees and brush

1. Initial cutting by municipality. A municipality may each year set aside a portion of the money raised and appropriated for ways and bridges, to be used to cut and remove all trees, shrubs and useless fruit trees, bushes and weeds, except shade trees, timber trees, cared-for fruit trees and ornamental shrubs growing between the road limit and the wrought part of any highway or town way, until all the trees, shrubs and worthless fruit trees, bushes and weeds have been once removed from the limits of the highway or town way.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Maintenance of cleared land. After the land has been initially cleared, the owner of the land adjoining the highway or town way shall each year, before the first day of October, remove all bushes, weeds, worthless trees and grass from the roadside adjoining the owner's cultivated or mowing fields. The municipality shall care for all other land, except wild land.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Violation. If any owner of land required to be maintained under subsection 2 fails to do so before the first day of October of each year, the municipal officers of the municipality in which the land

is located shall have the bushes, weeds, worthless trees and grass cut and removed. The actual expense of this cutting and removal shall be a lien upon the land adjoining the highway or town way and shall be assessed and collected as a tax on that land.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 159

PUBLIC DUMPS

§3351. Acquisition

Any municipality may, by action of its legislative body, direct its municipal officers to take suitable lands for public dumping grounds. When so directed, the municipal officers shall follow the condemnation procedure for town ways, as provided in Title 23, chapter 304. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Acceptance. The public dumping ground is not established until it has been accepted, as laid out, by the municipal legislative body.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Disposal. Any public dumping ground that ceases to be useable as such may be disposed of in the same manner as other lands owned by the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Application. Public dumping grounds established under this section are subject to Title 12, chapter 807, subchapter IV, article 1.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3352. Prohibited dumping

1. Prohibited dumping. Notwithstanding Title 17-A, section 4-A, whoever personally or through the agency of another leaves or deposits any offal, filth or other noisome substance in any public dumping ground, except in the manner prescribed by the local health officer, is guilty of a Class E crime and shall be punished by a fine of not less than $10 nor more than $100, or by imprisonment for not more than 3 months.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Civil action. A municipality may recover any expenses incurred in abating the nuisance caused by the violation in a civil action brought in the name of the municipality against the guilty party. If requested and the violation merits it, the court in its discretion may award double damages in the action.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3353. Rat control

Whenever a municipality maintains public dumping grounds, its municipal officers shall have the dumping grounds treated, when needed, with proper rat exterminating agents. These agents must be applied by competent persons properly certified for their use. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

At the request of the municipal officers of any municipality, the Board of Pesticides Control shall provide information on the most effective methods and materials for the purpose of carrying out this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 161

SEWERS AND DRAINS

SUBCHAPTER 1

GENERAL PROVISIONS

§3401. Preexisting drains

All drains previously made at a municipality's expense shall be maintained, managed, controlled and entered the same as if made under this chapter and Title 23, section 3251, subject to the rights that private persons have in those drains. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3402. Construction of drains; expense and control; notice; damages

1. Construction of sewers and drains. The municipal officers of a municipality, or a committee duly chosen by the municipality, may construct public drains or sewers, sewer systems or sewage disposal systems at the municipality's expense, along or across any public way in the municipality and through or upon any lands of persons when they consider it necessary for public convenience or health. Neither the municipal officers nor such a committee may construct any public sewer, sewer system or sewage disposal system in the municipality until that sewer is authorized by vote of the municipal legislative body and an appropriation made for the purpose. When constructed, these sewers, sewer systems or sewage disposal systems are under the control of the municipal officers.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Taking of land. Before the land is taken for the construction of any sewer, notice shall be given and damages assessed and paid for the land as is provided for the location of town ways under Title 23, chapter 304.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3403. Proper maintenance of drains required

After a public drain has been constructed and any person has paid for connecting with it, the municipality shall maintain and keep it in repair to afford sufficient and suitable flow for all drainage entitled to pass through it, but its course may be altered or other sufficient and suitable drains may be substituted in its place. If the municipality does not so maintain and keep it in repair, any person entitled to drainage through it may have an action against the municipality for damages sustained by the municipality's neglect. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3404. Record of proceedings; prosecutions

All proceedings of municipal officers under this chapter must be at their legal meetings. A suitable record shall be made of all permits issued under this chapter, describing the persons and lands to which they apply. The municipal officers have the exclusive direction, on behalf of their municipality, of all prosecutions under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3405. Sewer connections

If required by municipal ordinance, the owner of each lot or parcel of land upon which a building has been constructed which abuts upon a street or public way containing a sewer shall connect that building with the sewer and shall cease using any other method for the disposal of waste water. All such connections must comply with the applicable municipal ordinance, which may provide for a reasonable charge for making the connections. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3406. Service charges for sewage or storm water disposal

The municipal officers may establish a schedule of service charges from time to time upon improved real estate connected with a municipal sewer or sewer system or storm water disposal system

for the use of the system. These service charges must include reserve fund contributions. For purposes of this section, "storm water disposal system" means storm water and flood control devices, structures, conveyances, facilities or systems, including natural streams and rivers and other water bodies used wholly or partly to convey or control storm water or floodwater. [PL 2013, c. 197, §1 (AMD).]

1. Interest. The municipal officers may charge interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Lien. There is a lien on real estate served or benefited by a municipal sewer or sewer system or storm water disposal system to secure the payment of service charges and interest on delinquent accounts established under this chapter. This lien arises and is perfected as services are provided and takes precedence over all other claims on the real estate, excepting only claims for taxes.
[PL 2015, c. 174, §1 (AMD).]

3. Collection. The treasurer of the municipality may collect the service charges and interest on delinquent accounts in the same manner as granted by Title 38, section 1208, to treasurers of sanitary sewer districts with reference to rates established and due under Title 38, section 1202.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 197, §1 (AMD). PL 2015, c. 174, §1 (AMD).

§3406-A. Landlord access to tenant bill payment information

If a tenant is billed for municipal sewer or storm water disposal system service provided to property rented by the tenant and nonpayment for the service may result in a lien against the property, the municipality shall provide to the landlord or the landlord's agent, on request of the landlord or the landlord's agent, the current status of the tenant's sewer or storm water disposal system service account, including any amounts due or overdue. For purposes of this section, "storm water disposal system" has the same meaning as in section 3406. [PL 2013, c. 197, §2 (AMD).]

SECTION HISTORY

PL 2005, c. 306, §1 (NEW). PL 2013, c. 197, §2 (AMD).

§3407. Damage to public drains

Whoever willfully or negligently damages or obstructs a public drain or its outlet, or any street or highway culvert leading into it, is liable to the municipality where it is located in a civil action for double the amount of damages caused by that action, in addition to all other legal penalties for that action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3408. Crossing railroad right-of-way

Whenever a public drain or sewer is located and about to be constructed across or under the right-of-way of any railroad, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, using current engineering standards and practices, upon petition of either party and after notice and hearing, unless the municipal officers or committee of the municipality that located the drain or sewer agrees with the corporation operating the railroad as to the place, manner and

conditions of the crossing. All the work within the limits of the railroad location must be done under the supervision of the officers of the corporation operating the railroad and to the satisfaction of the commission. The municipality in which the drain or sewer is located shall bear the expense of the work. Any additional expense in the construction of that part of the sewer or drain within the limits of the railroad's right-of-way caused by the commission's determination must be borne by the railroad company or by the municipality in which the drain or sewer is located, or apportioned between the company and the municipality as the commission determines. The commission shall make a report of their decision in the same manner as in the case of highways located across railroads and subject to the same right of appeal. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 813 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 813 (AMD).

§3409. Consent for highway opening

Whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the municipal officers commits a civil violation for which a forfeiture of $100 may be adjudged for each offense. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

PRIVATE DRAINS

§3421. Private drains connected to public drains

1. Acceptance by municipality. This section does not apply to any municipality until it is accepted by the municipality's legislative body.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Connection before completion of drain. While a public drain or common sewer is under construction and before it is completed and the assessments made, any person may connect their private drain with the public drain or common sewer after obtaining a written permit from the municipal officers or the sewer board in charge of the construction of the public drain or common sewer.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Connection after completion of drain. After the public drain or common sewer is completed and the assessments made, no person may connect their private drain with the public drain or common sewer until that person has paid an assessment and obtained a written permit from the municipal treasurer, by authority of the municipal officers.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Permits recorded. The municipal clerk shall record all permits given to connect with any such drain or sewer before issuing the permit.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3422. Connection of private drains; permits; regulations

1. Connection of private drains; application. Abutters upon the line of a public drain existing in any municipality which has not accepted sections 3421, and 3441 to 3445, and abutters upon the line of a public drain constructed before a municipality accepts those sections, and the owner of contiguous private drains may enter and connect with the public drain on written application to the municipal officers distinctly describing the land to which the application applies and paying a fee determined by the municipal officers.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Permit issued. Upon application, the municipal officers shall give the applicant a written permit to enter and connect with the public drain. This permit is available to the owner of the land described in the application, the owner's heirs and assigns, and shall run with the land without any other or subsequent charge or payment.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Regulations. The municipal officers shall establish any other regulations and conditions for connecting with public drains that they consider expedient.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3423. Connection without permit

If any person connects a private drain with a public drain or enters it by a side drain without a permit, the municipal officers may immediately destroy the connection. That person commits a civil violation for which a forfeiture of not more than $200 may be adjudged, to be paid to the municipality where the offense is committed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3424. Adjustment of amounts paid for permits

1. Arbitration of permit fee. Any person who is dissatisfied with the fee required to connect with a public drain may, within 10 days after notice of that amount, make a written request to the municipal officers to have the amount of the fee determined by arbitration. The municipal officers shall nominate 6 persons. The applicant shall select 2 of these persons and a 3rd person who was not nominated by the municipal officers to act as arbitrators. These 3 persons may fix the amount of the fee. The arbitrators shall report their findings to the municipal clerk who shall record them with the proceedings of the municipal officers in establishing the drains.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Payment of fees. By paying the amount set by the arbitrators and the fees of the arbitrators, the applicant shall receive a permit. The municipal officers may determine the fees of the arbitrators, which shall be paid in advance, if required.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Failure to pay for permit. If any person neglects to pay the fee determined by arbitration under subsection 1 and the fees of the arbitrators, within 60 days after notice of that fee, that person shall have no benefit of that determination or of that person's permit.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3425. Pro rata payments for use of private drain

1. Creation of drain or sewer. When a person pays the expenses of laying a common drain or sewer, all persons who join or connect with it shall pay their proportion of that expense.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Repairs. All persons benefited by the drain or sewer shall pay the expense of opening and repairing the drain or sewer.

A. Before a common drain is opened for repairs under this subsection, all interested persons must have 7 days' notice of the repairs, given as the municipal officers direct. If anyone objects and the municipal officers find the objection reasonable, the person objecting is not liable for any expense for the repairs. If the municipal officers find the objection to be unreasonable or if no objection is made within 3 days, the municipal officers may give written permission to proceed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The municipal officers shall determine the amount of the payment under this subsection in each case, subject to appeal to the county commissioners. The municipal officers shall notify each person of the amount to be paid and to whom. If not paid in 10 days, double the amount with cost shall be paid. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3426. Repair of private drain on owner's neglect

If a private drain becomes so obstructed or out of repair as to damage any street or highway, and the persons using the drain, after notice by the road commissioners, unreasonably neglect to repair the drain and the damage to the street or highway, the municipality shall repair the drain and the damage to the street or highway. The municipality may recover the expense of these repairs in a civil action against any one or more of the persons using the drain. [PL 1987, c. 737, Pt. A, §2 (NEW); PL

1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3427. Violation of permit; nuisances

If any person willfully or negligently violates any condition or regulation prescribed in the permit, the municipal officers may immediately disconnect their drain from the public drain and declare the permit forfeited. That person, the person's heirs and assigns may not connect with the public drain again without a new permit. Whoever commits a nuisance by the construction or use of a private drain is liable for that nuisance notwithstanding this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3428. Malfunctioning domestic waste water disposal units; abatement of nuisance

Malfunctioning waste water disposal units, including septic tanks, cesspools, cisterns, dry wells, drainage beds, drains, sewer lines and pipes and the like, have become a menace to the health and general welfare of the citizens of this State and are declared to be a nuisance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Abatement procedure. Upon complaint of any person resulting in documentation of a malfunctioning waste water disposal unit or on their own information, the municipal officers shall serve an order to remedy a malfunctioning waste water disposal unit upon the owner of any premises within that municipality that has such a malfunctioning unit.
[PL 2007, c. 568, §1 (AMD).]

2. Content of order. The order must be addressed to the owner of the premises and must contain:

A. The date; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The fact of the malfunctioning waste water disposal unit; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A notice to remedy the nuisance within 10 days of service of the order; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The signatures of the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The municipal officers may allow the owner of the premises to request an extension of the 10-day period for no longer than an additional 20 days and may explain how to request an extension in the order. The municipal officers or their agents may approve an extension if it is reasonably necessary for and likely to result in remediation of the nuisance.
[PL 2007, c. 568, §1 (AMD).]

3. Service and return of service. One of the municipal officers or a law enforcement officer shall serve the order personally upon the owner, tenant or occupant in possession. The server shall make and file a return of service indicating the method used and the person served.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Abatement. If the nuisance is not abated within the 10-day period or such period up to but not exceeding the additional 20 days as allowed by the municipal officers under subsection 2, the municipal officers or their agents may enter the premises and have the malfunction adequately remedied. To recover any actual and direct expenses, including reasonable attorney's fees if the municipality is the prevailing party, incurred by the municipality in the abatement of such nuisances, the municipality shall:

A. File a civil action against the owner. The costs, including reasonable attorney fees, to create and prosecute an action to collect expenses following such a civil complaint, shall also be recovered from the owners; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Assess a special tax against the land on which the waste water disposal unit is located for the amount of the expenses. This amount shall be included in the next annual warrant to the tax collector of the municipality for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505, in the year in which the special tax is assessed, shall accrue on all unpaid balances of any special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest shall be added to and become part of the tax. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2007, c. 568, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 568, §1 (AMD).

SUBCHAPTER 3

ASSESSMENTS AND FEES

§3441. Applicability of provisions

This subchapter does not apply to any municipality until it is accepted by the municipality's legislative body. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3442. Expense of construction

1. Sewer district defined. As used in this section, sewer district means a quasi-municipal corporation, as defined in section 2604, subsection 3, established to construct and operate sewer systems to assist in the abatement of the pollution of public streams, lakes and inland and ocean waters.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Estimate and assessment of costs; notice. When any municipality or sewer district has constructed and completed a public drain or common sewer, the municipal officers or sewer district trustees shall determine what lots or parcels of land are benefited by the drain or sewer, and shall estimate and assess upon the lots and parcels of land and against the owner of the land or person in possession, or against whom the taxes on the land are assessed, whether the person to whom the assessment is so made is the owner, tenant, lessee or agent and whether the land is occupied or not, the sum not exceeding the benefit they consider just and equitable towards defraying the expenses of constructing and completing the drain or sewer, together with any sewage disposal units and appurtenances that are necessary and in operation after May 31, 1979. The whole of the assessments may not exceed 1/2 the cost of the drain or sewer and sewage disposal units unless 75% or more of the landowners that will be benefited by the expansion petition the municipal officers to construct the drain or sewer and sewage disposal unit and agree to pay a higher assessment that must be identified in the petition. The municipality or sewer district shall maintain and keep the drain or sewer in repair.

A. Farmland, as defined by Title 36, section 1102, subsection 4, is exempt from assessment under this subsection when no benefits are derived from the common sewer or drain. The owner of the farmland must notify the municipal officers or sewer district trustees that farmland property may qualify for this exception. The municipal officers or sewer district trustees shall revise the assessments against qualified farmland to exempt it from assessment. Any revision of assessment provided by this paragraph must be in writing and recorded by the clerk or sewer district trustees.

When the use of the land is changed from farmland, the owner shall within 60 days notify the municipal officers or sewer district trustees in writing of the change. The municipal officers or sewer district trustees shall assess this land in an amount equal to the assessment which would have been due but for this subsection. The municipal officers or sewer district trustees shall notify the owner of the assessment due which the owner shall pay within 60 days of notice or as provided by the municipal officers under their authority in section 3444. [PL 1991, c. 236, §1 (AMD).]

[PL 1991, c. 236, §1 (AMD).]

3. Filing of assessments. The municipal officers or sewer district trustees shall file with the municipal clerk:

A. The location of the drain or sewer and sewage disposal unit, with a profile description of the same; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A statement of the amount assessed upon each lot or parcel of land assessed under this section; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The name of the owner of the lots or parcels of land or persons against whom the assessment is made. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The municipal clerk and the sewer district trustees shall record the assessment in a book kept for that purpose.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Notice of assessment. Within 10 days after filing occurs under subsection 3, each person so assessed shall have notice of the assessment given to that person or left at that person's usual place of abode in the municipality.

A. If the person has no place of abode in the municipality, then the notice shall be given or left at the abode of the tenant or lessee, if any. If there is no tenant or lessee in the municipality, then the notice shall be given by:

(1) Posting it in some conspicuous place in the vicinity of the lot or parcel of land so assessed at least 30 days before the hearing; or

(2) Publishing it for 3 successive weeks in any newspaper of general circulation in the municipality. The first publication must be at least 30 days before the hearing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The notice must contain an authentic copy of the assessment, and an order of notice signed by the municipal clerk or the chairman of the sewer district trustees stating the time and place for a hearing upon the subject matter of the assessments. A return made upon a copy of the notice by any constable in the municipality or the production of the paper containing the notice is conclusive evidence that the notice was given. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Hearing; revision of assessments. When the hearing is held, the municipal officers or sewer district trustees may revise, increase or diminish any of these assessments. Any revision, increase or diminution must be in writing and recorded by the municipal clerk and the sewer district trustees.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 236, §1 (AMD).

§3443. Arbitration of assessment

Any person who is dissatisfied with the amount assessed under section 3442 may, within 10 days after hearing under section 3442, subsection 5, make a written request to the municipal clerk to have the assessment upon the lot or parcel of land determined by arbitration. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Arbitrators selected. The municipal officers shall nominate 6 persons who are residents of the municipality. The applicant shall select 2 of these persons, and these 2 persons shall select a 3rd person who is a resident of the municipality and who is not one of the 6 persons nominated by the municipal officers.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Arbitration procedure. The 3 persons selected under subsection 1 shall fix the amount to be paid by the applicant. Within 30 days from the hearing before the municipal officers under section 3442, the arbitrators shall report their findings to the municipal clerk who shall record them. The arbitrators' report is final and binding on all parties.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3444. Collection of assessments

Except for service charges established under section 3406 which shall be collected as provided in that section, all assessments and charges made under this chapter shall be certified by the municipal officers and filed with the tax collector for collection. A facsimile of the signatures of the municipal officers imprinted at their direction upon any certification of an assessment or charge under this chapter has the same validity as their signatures. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Payment over time. The municipal officers of a municipality may adopt an order generally authorizing the assessors and the tax collector to assess and collect those assessments and charges over a period of time not exceeding 10 years, including expenses involved in the municipality's abatement of malfunctioning domestic waste water disposal units under section 3428, subsection 4.

A. The assessors and collector may exercise this authority only when the person assessed has agreed to that method of assessment and collection in writing and notice of that fact has been recorded in the appropriate registry of deeds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The municipal officers shall annually file with the collector a list of installment payments due the municipality, which must be collected with interest at a rate determined by the municipal officers. If, within 30 days after written notice of the total amount of the assessments and charges, or annual installment payment and interest, the person assessed fails, neglects or refuses to pay the municipality the expense incurred, the municipal assessors may assess a special tax, equal to the amount of the total unpaid assessment and charges, upon each lot or parcel of land so assessed and buildings upon the lot or parcel of land. This assessment must be included in the next annual warrant to the tax collector for collection and must be collected in the same manner as state, county and municipal taxes are collected.

(1) Interest at the same rate used for delinquent property taxes as established by Title 36, section 505, subsection 4 on the unpaid portion of assessments and charges due the municipality accrues from the 30th day after written notice to the person assessed and must be added to and becomes part of the special tax when committed to the tax collector. [PL 1995, c. 91, §1 (AMD).]

[PL 1995, c. 91, §1 (AMD).]

2. Action to recover unpaid assessments. If assessments under this section are not paid, and the municipality does not proceed to collect the assessments by a sale of the lots or parcels of land upon which the assessments are made, or does not collect or is in any manner delayed or defeated in collecting the assessments by a sale of the real estate so assessed, then the municipality may maintain a civil action in its name against the party so assessed for the amount of the assessment in any court competent to try the action. In this action, the municipality may recover the amount of the assessment with 12% interest on the assessment from the date of the assessment and costs.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 91, §1 (AMD).

§3445. Lien for payment on lot and building; enforcement

When any assessment made under section 3442 is paid by any person against whom the assessment has been made, who is not the owner of the lot or parcel of land, then the person paying the assessment has a lien upon the lot or parcel of land with the buildings on the land for the amount of the assessment

paid by that person, and incidental charges. The lien may be enforced in a civil action, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under Title 10. The lien shall continue one year after the assessment is paid. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3446. Impact fees and connection fees; affordable housing

The municipal officers may reduce the impact fee or connection fee, as those terms are defined in section 5061, for sewer service to newly constructed affordable housing in accordance with chapter 202-A. [PL 2007, c. 174, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 174, §1 (NEW).

CHAPTER 163

TRANSPORTATION

§3501. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. District. "District" or "transit district" includes:

A. A district created by vote of a single municipality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A district created by vote of a group of municipalities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A municipality voting to provide mass transportation service without the creation of a district; [PL 2019, c. 242, §1 (AMD).]

D. A regional transportation corporation, except that sections 3510, 3512 and 3517 do not apply to a regional transportation corporation; and [PL 2019, c. 242, §1 (AMD).]

E. A transportation corridor district, except that section 3502, section 3505, section 3516, subsections 2 and 3 and section 3517 do not apply to a transportation corridor district. [PL 2019, c. 242, §2 (NEW).]

[PL 2019, c. 242, §§1, 2 (AMD).]

2. Regional transportation corporation. "Regional transportation corporation" means any private, nonprofit corporation formed for the express purpose of providing public transportation services to more than one municipality but which is not wholly or partly owned by the municipalities. The corporation must be approved, for the purpose of providing public transportation services, by the municipal officers of each community to receive public transportation services from the corporation. After being approved by the municipal officers of 5 or more communities, such a corporation shall be

duly certified as a regional transportation corporation by the Department of Transportation and is subject to all applicable Public Utilities Commission rules governing charter and rates of fare.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Portland Area Comprehensive Transportation System. "Portland Area Comprehensive Transportation System" means the federally designated planning organization for the Portland region established to improve the coordination of transportation planning and investment decisions by state, municipal and public transportation organizations.
[PL 2009, c. 18, §1 (NEW).]

4. Transportation corridor district. "Transportation corridor district" means a specified area contiguous with a transportation route or facility that has been formed by a municipality or municipalities and approved by the voters as provided under section 3502-A.
[PL 2019, c. 242, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 726, §1 (AMD). PL 2009, c. 18, §1 (AMD). PL 2019, c. 242, §§1-3 (AMD).

§3502. Formation; powers

1. Formation. By vote of its legislative body, any municipality may by itself, or in cooperation with one or more other municipalities, form a transit district for the purposes provided in this chapter.

A. Municipalities not in the same geographic public transportation region must gain approval from the Department of Transportation before forming a transit district under this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. With the consent of the Department of Transportation and of the municipal officers of any municipality not included in a transit district, a transit district may provide transportation services within that municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8 and 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. General powers; area of service. The district formed under subsection 1 is a body politic and corporate, and may sue, be sued, plead and be impleaded, adopt a name, adopt and alter a common seal and do all things necessary to furnish motor vehicle mass transportation within that district, including charter service, for public purposes in the interest of the health, safety, comfort and convenience of the inhabitants of the municipality or municipalities comprising the district.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Incidental rights. All incidental powers, rights and privileges necessary to accomplish the main objective set forth in this chapter are granted to a district created. Such a district is subject to the jurisdiction of the Public Utilities Commission only to the extent provided in this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Prohibition. Except for the following items, a transit district may not sell, rent or lease goods or services to any entity other than the State, a municipality, quasi-municipal corporation or transit

district, unless those goods or services are essential to the purchaser and are not available from another source:

A. Advertising space on vehicles owned by the transit district; [PL 1989, c. 726, §2 (NEW).]

B. Existing vacant office or storage space owned by the transit district; and [PL 1989, c. 726, §2 (NEW).]

C. Used equipment not originally purchased for resale. [PL 1989, c. 726, §2 (NEW).]

Transit districts subject to regulation by the Public Utilities Commission under Title 35-A, Part 5, are exempt from this subsection.
[PL 1989, c. 726, §2 (NEW).]

5. Penalty. Any transit district violating subsection 4, is subject to a civil penalty of not more than $5,000, payable to the State, and recoverable in a civil action.
[PL 1989, c. 726, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 726, §2 (AMD).

§3502-A. Formation of a transportation corridor district; powers

1. Formation. A municipality may, in accordance with the requirements of this section, by itself or in cooperation with one or more other municipalities, form a transportation corridor district for the purposes of funding public transportation and serving accessibility needs, including passenger rail, ferry, bus, bicycle and pedestrian facilities and routes, and promoting economic development at transportation station areas and in downtown areas. The municipality or group of municipalities shall select the borders of the transportation corridor district. The transportation corridor district may include the entire municipality or group of municipalities or a portion of the municipality or portions of the municipalities, but must encompass an existing or proposed transportation corridor.
[PL 2019, c. 242, §4 (NEW).]

2. Notice and hearing. Before forming a transportation corridor district, a municipality or group of municipalities shall hold at least one public hearing on the proposed transportation corridor district in the municipality or in each of the participating municipalities. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or municipalities and on each participating municipality's publicly accessible website if the municipality has a publicly accessible website. The municipality or group of municipalities shall provide notification by first-class mail of the public hearing to all owners of property within the borders of the proposed transportation corridor district. The municipality or group of municipalities shall provide notification of the public hearing to the Department of Transportation and to adjoining municipalities of the proposed transportation corridor district. After adjoining municipalities are notified of the public hearing, but before voter approval under subsection 3, the municipality or group of municipalities may coordinate with adjoining municipalities along the transportation corridor to change the borders.
[PL 2019, c. 242, §4 (NEW).]

3. Voter approval. The formation of a transportation corridor district must be approved by a voter referendum in each participating municipality.
[PL 2019, c. 242, §4 (NEW).]

4. General powers; area of service. A transportation corridor district formed under this section is a body politic and corporate and may sue, be sued, plead and be impleaded, adopt a name, adopt and alter a common seal and do all things necessary to furnish transportation within that district, including

charter service, for public purposes in the interest of the health, safety, comfort and convenience of the inhabitants of the municipality or municipalities composing the district.
[PL 2019, c. 242, §4 (NEW).]

5. Incidental rights. All incidental powers, rights and privileges necessary to accomplish the main objective set forth in this chapter are granted to a transportation corridor district formed under this section. Such a district is subject to the jurisdiction of the Public Utilities Commission only to the extent provided in this chapter.
[PL 2019, c. 242, §4 (NEW).]

SECTION HISTORY

PL 2019, c. 242, §4 (NEW).

§3503. Addition to or modification of a district

1. Application for membership to a district. A municipality that is contiguous to any other municipality authorized to provide transportation services under this chapter or contiguous to any municipality that is a member of a transit district may apply to the transit district for membership, and the board of directors may accept or refuse the application for membership.
[PL 2019, c. 242, §5 (NEW).]

2. Modification of borders of a transportation corridor district. The board of directors, with approval from all municipalities in the transportation corridor district, may change the borders of a transportation corridor district.
[PL 2019, c. 242, §5 (NEW).]

3. Joining a transportation corridor district. Notwithstanding anything to the contrary in subsection 1, a municipality with an existing or proposed transportation corridor connecting to an established transportation corridor district may apply to join the transportation corridor district. The municipality applying to join an established transportation corridor district must receive approval by a majority of voters within the municipality. The board of directors of the established transportation corridor district, with approval from all municipalities in the district, may approve the municipality's application by a majority vote.
[PL 2019, c. 242, §5 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 242, §5 (RPR).

§3504. Management

The affairs of a district formed under section 3502 or 3502-A must be managed by a board of directors chosen from the inhabitants of the municipality or municipalities composing the district. [PL 2019, c. 242, §6 (AMD).]

1. Number of directors. Except as provided in subsection 3, each municipality is entitled to one director for each 10,000 inhabitants of the municipality or fraction of that number, as determined by the latest Federal Decennial Census, in accordance with the following schedule:

A. 0 to 10,000--1; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. 10,001 to 20,000--2; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. 20,001 to 30,000--3; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. 30,001 to 40,000--4; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. 40,001 to 50,000--5; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. 50,001 to 60,000--6; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. 60,001 to 70,000--7; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Over 70,001--8. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Appointment; terms; quorum. The municipal officers of each municipality shall appoint the directors of a district. Initially, the directors' terms of office must be determined by lot at their first organizational meeting as follows: One-third of those appointed serve for 3 years, 1/3 for 2 years and the remaining number for one year. All subsequent appointments are for a term of 3 years. Directors serve until their successors have been appointed, with vacancies being filled for the unexpired portion of the respective terms.

A majority of the directors constitutes a quorum for the transaction of business. Action taken by 2/3 of the directors present at any meeting at which a quorum is in attendance is considered to be the action of the full board of directors.

[PL 2019, c. 242, §7 (AMD).]

3. Greater Portland Transit District. The board of directors of the Greater Portland Transit District, composed of the City of Portland, the City of Westbrook and the Town of Falmouth, consists of 5 directors appointed from the City of Portland, 3 directors appointed from the City of Westbrook and 2 directors appointed from the Town of Falmouth. Notwithstanding the other provisions of this chapter, the board of directors of the Greater Portland Transit District may receive and accept applications for membership from other municipalities located wholly or partially within, or contiguous to, the Portland Area Comprehensive Transportation System whether or not they are contiguous to other members of the Greater Portland Transit District and may determine the number of directors to be appointed from those municipalities to the board of directors of the Greater Portland Transit District on any basis that is mutually agreed upon by the municipality applying for membership and the board of directors of the Greater Portland Transit District. The member municipalities may, by ordinance, provide that their appointees serve at the will of the appointing power or for terms that are shorter than those established in subsection 2.

[PL 2019, c. 554, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 18, §2 (AMD). PL 2019, c. 242, §§6, 7 (AMD). PL 2019, c. 554, §1 (AMD).

§3505. Single municipal or regional transportation district

1. Formation of district. If a single municipality votes to create a transit district, its municipal officers shall appoint 5 directors from the inhabitants of the municipality. These directors have the same terms of office, powers, duties and privileges as set forth in this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Operation without forming district. A single municipality, by vote of its legislative body, or a regional transportation corporation, by vote of its board of directors, may be empowered to perform the functions provided in this chapter without creating a district. Thereafter, that single municipality or regional transportation corporation has all of the powers, duties and privileges established applicable to a district, unless specifically excluded. The municipal officers of that municipality or directors of that regional transportation corporation have the same powers, duties and privileges granted under this chapter to the board of directors of a district.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3506. Officers; meetings; employees

1. Officers; bylaws. The directors shall elect from among their members a president, treasurer, clerk and any other officers that they desire and shall adopt bylaws and regulations for the conduct of the district's affairs.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Meetings. The directors shall meet at least 4 times a year or more often if required by the bylaws, and upon the call of the president. The president shall call any other meetings that are requested in writing directed to the president and signed by at least 1/3 of the members of the board of directors.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. District manager; employees. The directors shall appoint and fix the salary of a district manager who may not be a director. The district manager is the chief executive officer of the district. The district manager shall appoint any other employees that are required for district purposes and fix the salaries of those employees. The directors may, by resolution, indicate which appointments by the manager and salaries established by the manager will require confirmation of the board of directors.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A31,C8,C10 (AMD).

§3507. Interest in contracts

No director, officer or employee of the district may be interested directly or indirectly in any contract entered into by or in behalf of a district for work or material, or the purchase of material, or in any property acquired or to be acquired by the district. All contracts made in violation of this section are void. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3508. Certificate of organization

After its organization, the district shall file a certificate with the Secretary of State setting forth the following information: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Name. Name of the district;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Purposes. Its purposes;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Municipalities included. Municipalities included within the district;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Location. Location of the principal office;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Names of directors. Number and names of the directors and their addresses; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Names of officers. Names and addresses of the officers.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

This certificate shall be signed by the president and treasurer and a majority of the directors, and the president or treasurer shall swear that the signatures set forth in the certificate are true. From time to time as changes occur, the district shall file an amended certificate with the Secretary of State setting forth those changes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3509. Powers of directors

For the purpose of providing mass transportation services wholly or partially within the municipalities comprising the district, the directors of a district may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Powers over property. Take, purchase, hold, maintain, operate, lease, rent, mortgage and convey any real and personal property;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Leasing property. Lease or sublease any real and personal property;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Private contracts. Enter into contracts with private companies; or
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Government contracts. Contract with the Federal Government, State Government and municipal governments for donations, loans, grants, gifts or other assistance. The directors may agree in these contracts to be bound by all applicable provisions of federal, state or municipal laws, regulations and rules.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3510. Eminent domain; appeal

A district may acquire for the public purposes of a district by purchase or by the exercise of the power of eminent domain any and all real property of any person, including the real and personal property and franchise of any person operating a local mass transportation service within any municipality comprising a district. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Determination of damages. If the district and the owner are unable to agree on a price within 60 days after the district has notified the owner of its intention to exercise its power of eminent domain, the board of directors of a district may, by resolution, take and acquire all or any part of the real and personal property and franchise of that owner, and shall determine the amount to be paid to the owner for that taking. Upon payment of this amount, or if payment is refused, upon depositing this amount with the treasurer of the district to be held in trust separate and apart from other funds of the district, the district may take and become the owner of the real and personal property and franchise set forth in the resolution.

A. Within 30 days after payment or tender, the board of directors shall have recorded in the registry of deeds in the county where the land and property is located:

(1) A certified copy of the resolution; and

(2) A description of any real property and a plan of the real property, together with a description of any personal property taken under this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The district shall have a certified copy of the resolution of the board of directors and a certified copy of the filing in the registry of deeds either delivered personally to the owner or the owner's agent or sent by registered mail to the owner. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. If the district acquires, by eminent domain, real or personal property in connection with a project involving federal participation under the United States Urban Mass Transportation Act of 1964, Public Law 88-365, the district shall, in that acquisition, comply with all of the procedures established under that Act for acquiring real or personal property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Appeal to Superior Court. If the owner is aggrieved at the damages awarded for a taking under this section, the owner may appeal from the award to the Superior Court of the county in which the property lies by filing a complaint in that court and serving the district with a copy of the complaint within 60 days from the date of the recording in the registry of deeds. The complaint must set forth substantially the facts, but shall not state the amount of the damages previously awarded to the owner. The damages may be determined in the Superior Court by a committee of reference if the parties so agree, or by a verdict of its jury. The committee of reference shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. If the damages are increased, the district shall pay the damages and costs; otherwise, the appellant shall pay the costs.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Appeal to Law Court. An appeal may be taken by any party from the Superior Court's judgment to the Supreme Judicial Court as in other cases.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3511. Exempt from taxation; fuel tax refund

The property, both real and personal, of a district, whether held and operated by itself or leased to a private operator, for the purpose of providing mass transportation as provided in this chapter, is exempt from all registration fees, real, personal, excise, sales and use, and any other taxes which are assessed by the State or any political subdivision of the State. A district, or its lessee, or any person contracting with the district for the purpose of furnishing mass transportation, is entitled to be reimbursed and paid to the extent of the full amount of the tax paid for fuel used in motor vehicles owned and operated by them for that purpose. That district, lessee or person shall present its claim to the State Tax Assessor in the form and with any information that the State Tax Assessor requires, accompanied by original invoices showing the purchases. Applications for refunds as provided must be filed with the State Tax Assessor within 9 months from the date of purchase. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3512. Notes; securities

1. Securities defined. As used in this section, "securities" means negotiable bonds or notes issued by the district, including temporary notes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Notes and securities authorized. For accomplishing the purposes of this chapter and for paying any indebtedness and any necessary expenses and liabilities incurred for that purpose, including organizational and other necessary expenses, a district, except for a transportation corridor district, by

vote of its board of directors, or a transportation corridor district, if approved by voter referendum in each municipality participating in the transportation corridor district, may:

A. Borrow money temporarily and issue its negotiable notes for that money; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. From time to time, issue securities of the district in one series or in separate series in such amount or amounts, bearing interest at such rate or rates and having such terms and provisions as the board of directors determines. These securities may be issued with or without provision for calling the securities before maturity and, if callable, may be made callable at par or at any premium determined by the board of directors. The board of directors may from time to time issue its securities in one series or in separate series for the purpose of paying, redeeming or refunding outstanding securities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 242, §8 (AMD).]

3. Form of notes and securities. All negotiable notes authorized for temporary borrowing shall be signed on behalf of the district by its treasurer and countersigned by its president. All securities shall have the corporate name of the district inscribed on their face, shall be signed by the treasurer and countersigned by the president and, if coupon bonds are issued, the interest coupons attached to the securities shall bear the facsimile of the treasurer's signature.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Legal obligations; investment by banks; tax exempt. All securities issued by the district are legal obligations of the district. The district is deemed to be a quasi-municipal corporation within the meaning of section 2604, subsection 3, and that section applies to the district. All securities issued under this section are legal investments for savings banks in this State and are tax-exempt.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Sinking fund. If the securities are to be payable for a specified term of years, the board of directors shall establish a sinking fund for the purpose of paying or redeeming the securities when they become due. The board of directors shall determine annually the sum, with interest, to be paid into the sinking fund by each municipality comprising the district. This sum shall be based on the same formula used in computing the operating deficit payment.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 242, §8 (AMD).

§3513. Collective bargaining; rights of employees

1. Bargaining authorized; contracts. The directors of a district may bargain collectively and enter into written contracts with duly authorized labor organizations representing employees other than executive, administrative or professional personnel. These contracts may provide for wages, salaries, hours, working conditions and benefits, including, but not limited to, provisions pertaining to health and welfare, insurance, vacations, holidays, sick leave, seniority, arbitration, pensions and retirement.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Rights of employees. It is declared to be the public policy of this State for the protection of the public health, safety and welfare that employees covered by contracts made under this section shall be accorded all of the rights of labor, except for the right to strike or engage in any work stoppage or slowdown.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Employees of acquired transportation system. Whenever a district acquires any local mass transportation system under this chapter and operates that system or leases or contracts for the operation of that system under this chapter, the individual employees of that system shall be retained in positions the same as, or no worse than, their positions before the district's acquisition of the system to the fullest extent possible consistent with sound management and to the extent required by the service to be rendered from time to time by the district, its lessee or contractor. Any such employee not retained or laid off after retention because of lack of work or curtailment of service shall be assured priority of employment or reemployment when a position for which that employee is qualified becomes available.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3514. Limitation on charter service

Charter service provided by the district must originate or terminate at some point within that district. Charter service provided by a district is in all respects subject to the jurisdiction of the Public Utilities Commission in the same manner and to the same extent as private companies providing charter service, except that a regional transportation corporation may not provide any charter service other than that specifically provided for under the conditions of any license granted the corporation by the Public Utilities Commission. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3515. Routes and fares; sinking fund

1. Establishment of routes and fares. Except as provided in paragraphs A and B, the directors of a district shall establish such routes and fix such rates of fare to be charged for the mass transportation service as will, to the extent possible, reasonably ensure sufficient income to meet the cost of the service, including, but not limited to, operating expenses, insurance, taxes, rentals, annual serial bond payments, interest, allocation for a reserve account and an allowance for depreciation.

A. The directors of a district that participates in a locally coordinated plan for regional transit that has been approved in accordance with Title 23, section 4209 shall establish routes and fixed fares in accordance with the plan whenever the plan requires. [PL 2015, c. 182, §9 (AMD).]

B. The director of a regional transportation corporation shall not fix any rates of fare to be charged for mass transportation other than that specifically provided for under the conditions of any license granted the corporation by the Department of Transportation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2015, c. 182, §9 (AMD).]

2. Use of surplus; sinking fund. If, after all such obligations have been met, a surplus remains, the directors may deposit all or any part of the surplus in a reserve account or in the sinking fund created by this chapter. If all or any part of the surplus is deposited in the sinking fund, the amount of the annual commitment to the tax assessors of the municipalities comprising the district covering payments to the sinking fund shall be reduced by the amount of that deposit.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Hearing required. The board of directors shall hold a public hearing before making any major changes in routes in the district or in the fare structure of the district.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2015, c. 182, §9 (AMD).

§3516. Estimate of expenditures; contributions; budget

1. Estimate of expenditures and revenues. By November 1st of each year, the board of directors shall prepare and submit to the municipal officers of the municipalities comprising the district an itemized estimate of expenditures and revenues for the following calendar year, which shall be the fiscal year. This estimate must include the following:

A. An itemized estimate of anticipated revenues during the ensuing fiscal year from each source; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An itemized estimate of expenditures for each classification for the ensuing fiscal year, including payments of principal and interest on bonds or notes issued or to be issued by the district; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. After the first year of operation, an itemized statement of all actual receipts from all sources to, and including September 30th of each previous fiscal year, with estimated receipts from those sources shown for the balance of the year; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. After the first year of operation, an itemized statement of all actual expenditures, up to and including September 30th of each previous fiscal year, with estimated expenditures shown for the balance of the year; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. An estimate of revenue surplus or deficit of the district for the fiscal year for which estimates are being prepared. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Determination of municipal contributions. Each year, before submitting the estimates required by subsection 1 to the municipal officers, the board of directors of the district, by a 2/3 vote of its entire membership, shall establish a formula for contributions to be made by each municipality in order to defray any projected deficit. This formula and estimated amount of the contribution required

from each municipality shall be shown in the estimates filed with the municipal officers of each municipality.

A. The formula shall be based upon such items as route mileage, profit or loss resulting from the service to the municipality, population and any other factors that the board of directors considers relevant. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If the board of directors is unable to establish the formula by a 2/3 vote of its entire membership, it shall, by November 1st:

(1) Petition the Public Utilities Commission; and

(2) Include with its submission of the estimates to the municipal officers of each municipality a statement that a formula has not been established but that a petition has been made to the Public Utilities Commission for findings and a decision with respect to a formula. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. If a municipality refuses to accept a formula established by the board of directors and submitted to it by November 1st, the municipal officers of the municipality shall, within 30 days after the submission, notify the board of directors of their refusal. The board of directors shall then, by December 15th, petition the Public Utilities Commission as provided in paragraph B. Upon the filing of the district's petition, the Public Utilities Commission, after notice to all the municipalities comprising the district and a hearing, shall consider the formula and make its findings and decision with respect to the formula within 60 days from the filing of the district's petition. The findings and decision of the Public Utilities Commission are binding upon the district and the municipalities. The district or any municipality may appeal from the findings and decision of the Public Utilities Commission in accordance with Title 35-A, section 1320. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Budget; payment of allocations. By March 1st of each year, the board of directors shall adopt a final budget for that year which shall be itemized in the same manner as the estimate of expenditures and revenues under subsection 1. This budget shall be submitted immediately to the municipal officers of the municipalities comprising the district and the amounts allocated to each municipality to defray any projected revenue deficit in the budget shall be included in the warrant to the assessors of each municipality as provided in section 3517.

A. If an appeal from any findings and decision of the Public Utilities Commission as provided in subsection 2, paragraph C, is pending on March 1st, the allocations shall be made in accordance with the findings and decision of the Public Utilities Commission from which the appeal was taken. Any adjustments to these allocations required to be made in accordance with the decision upon any such appeal shall be made as follows.

(1) If the allocation to any municipality is increased, the additional payment shall be included in the current assessment or, if the increase is made after April 1st, the additional payment shall be certified to the municipal officers of the municipality who shall appropriate the amount of the increase out of unappropriated surplus, a contingency fund or shall raise that amount by issuing temporary notes which must be payable within one year from their dates.

(2) If the allocation to any municipality is decreased, the amount of the decrease shall be deducted from the current assessment or, if the decrease is made after April 1st, shall be paid by the district to the treasurer of the municipality from funds received from municipalities

whose allocation is increased. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3517. Warrant for taxes

Before April 1st of each year, the directors shall issue their warrant in the same form as the warrant of the Treasurer of State for taxes, with proper changes, to the assessors of the municipalities comprising the district. The warrant shall require the municipalities to assess the sum allocated to each municipality for payment of the operating deficit and the sum allocated to each municipality for payment into the sinking fund, if any, upon the taxable estates within those municipalities and to commit their assessment to the constable or collector of the municipalities. The constable or collector has all the authority and powers to collect these taxes as is vested by law to collect state, county and municipal taxes. Within 30 days after the date fixed by the municipality on which its taxes are due, the treasurer of the municipality shall pay the amount of the tax assessed under this section to the treasurer of the district. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Failure to pay. If the treasurer of a municipality fails to pay the sum assessed under this section, or fails to pay any part of the sum by the date set in the year in which the tax is levied, the treasurer of the district may issue a warrant for the amount of the tax, or so much of the tax as remains unpaid, to the sheriff of the appropriate county, requiring the sheriff to levy by distress and sale on real and personal property of any of the inhabitants of the municipality. The sheriff or any of the deputies shall execute the warrant.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3518. Withdrawal

A municipality may withdraw from the district at the end of a fiscal year provided that it has given the board of directors at least one year's written notice of its intention to do so. The municipality must pay its proportionate share of the current indebtedness of the district before withdrawal and must agree by appropriate written document to pay its proportionate share of any long-term indebtedness of the district as that indebtedness becomes due and payable. During the period of notice, the withdrawing municipality does not become liable for any capital expenditures or borrowings which may be made by the district. The proportionate share of the withdrawing municipality in any current and long-term indebtedness of the district shall be in accordance with the formula then in effect for payment of the current and long-term indebtedness. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3519. Dissolution

At such time as a district has discharged all of its obligations and paid or provided for the payment of all of its bonded indebtedness, the board of directors may, by 2/3 vote of its membership, dissolve the district and dispose of all of its property, real and personal, in the manner authorized and directed by the board of directors. The treasurer may execute any deeds, bills of sales or any documents required for that purpose. All money, if any, remaining in the hands of the treasurer of the district shall be paid to the municipalities comprising the district as of the date of dissolution in accordance with the formula then in effect for the payment of any operating deficit. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 164

FIRE DISTRICTS

§3531. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 698, §2 (NEW).]

1. District. "District" or "fire district" means a district created by vote of a group of municipalities for the purpose of providing fire protection.
[PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3532. Formation; powers

1. Formation. By vote of its legislative body, any municipality, in cooperation with one or more other municipalities, may form a district for the purposes provided in this chapter.
[PL 1997, c. 698, §2 (NEW).]

2. General powers; area of service. The district formed under subsection 1 is a quasi-municipal corporation that may sue and be sued, plead and be impleaded, adopt a name, adopt and alter a common seal, borrow funds and do all things necessary to furnish fire protection within that district.
[PL 1997, c. 698, §2 (NEW).]

3. Incidental rights. All incidental powers, rights and privileges necessary to accomplish the main objectives set forth in this chapter are granted to a district created under this chapter.
[PL 1997, c. 698, §2 (NEW).]

4. Draft agreement. Prior to voting on formation of a fire district, the municipalities shall negotiate an agreement on terms for governing the district, including such matters as the number and distribution of district directors, length of term for a director, the time frame of the fiscal year of the district and such other matters as are essential to the operation of the district.
[PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3533. Management

1. Directors; officers. The affairs of a district formed under section 3532 are managed by a board of directors chosen from the inhabitants of the municipalities comprising the district. The municipal officers of each municipality shall select the directors to represent the municipality. The directors shall elect from among themselves a president, treasurer, clerk and such other officers as they consider necessary.
[PL 1997, c. 698, §2 (NEW).]

2. Bylaws. The directors shall adopt bylaws and rules for the conduct of district affairs.
[PL 1997, c. 698, §2 (NEW).]

3. Employees. The directors may appoint and fix the compensation, if any, of employees needed to carry out the district's purposes and may delegate their authority under this subsection to a district manager.
[PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3534. Interest in contracts

A director, officer or employee of the district may not have a direct or an indirect interest in any contract entered into by or in behalf of a district for work or material, or for the purchase of material, or in any property acquired or to be acquired by the district. A contract made in violation of this section is void. [PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3535. Certificate of organization

After its organization, the district shall file a certificate with the Secretary of State in accordance with Title 13, section 903. The certificate must set forth the following information: [PL 1997, c. 698, §2 (NEW).]

1. Name. Name of the district;
[PL 1997, c. 698, §2 (NEW).]

2. Purposes. Purposes of the district;
[PL 1997, c. 698, §2 (NEW).]

3. Municipalities included. Municipalities included within the district;
[PL 1997, c. 698, §2 (NEW).]

4. Location. Location of the principal office;
[PL 1997, c. 698, §2 (NEW).]

5. Names of directors. Number and names of the directors and their addresses; and
[PL 1997, c. 698, §2 (NEW).]

6. Names of officers. Names and addresses of the officers.
[PL 1997, c. 698, §2 (NEW).]

As changes occur, the district shall file an amended certificate with the Secretary of State setting forth those changes. [PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3536. Powers of directors

The directors of a district may exercise all powers necessary to carry out the purposes of this chapter. [PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3537. Estimate of expenditures; contributions; budget

1. Estimate of expenditures and revenues. At least 2 months before the beginning of the district's fiscal year, the board of directors shall prepare and submit to the municipal officers of the municipalities comprising the district an itemized estimate of expenditures and revenues for the following calendar year, which must be the fiscal year. This estimate must include the following:

A. An itemized estimate of anticipated revenues during the ensuing fiscal year from each source; [PL 1997, c. 698, §2 (NEW).]

B. An itemized estimate of expenditures for each classification for the ensuing fiscal year, including payments of principal and interest on bonds or notes issued or to be issued by the district; [PL 1997, c. 698, §2 (NEW).]

C. After the first year of operation, an itemized statement of all actual receipts from all sources, up to and including the last day of the 3rd quarter of the current fiscal year, with estimated receipts from those sources shown for the balance of the year; [PL 1997, c. 698, §2 (NEW).]

D. After the first year of operation, an itemized statement of all actual expenditures, up to and including the last day of the 3rd quarter of the current fiscal year, with estimated expenditures shown for the balance of the year; and [PL 1997, c. 698, §2 (NEW).]

E. An estimate of revenue surplus or deficit of the district for the fiscal year for which estimates are being prepared. [PL 1997, c. 698, §2 (NEW).]

[PL 1997, c. 698, §2 (NEW).]

2. Determination of municipal contributions. Each year, before submitting the estimates required by subsection 1 to the municipal officers, the board of directors of the district, by a 2/3 vote of its entire membership, shall establish a formula for contributions to be made by each municipality in order to defray any projected deficit. This formula and estimated amount of the contribution required from each municipality must be shown in the estimates filed with the municipal officers of each municipality.

[PL 1997, c. 698, §2 (NEW).]

3. Budget; payment of allocations. Not later than 60 days after the beginning of the district's fiscal year, the board of directors shall adopt a final budget for that year that must be itemized in the same manner as the estimate of expenditures and revenues under subsection 1. This budget must be submitted immediately to the municipal officers of the municipalities comprising the district, and the amounts allocated to each municipality to defray any projected revenue deficit in the budget must be included in the warrant to the assessors of each municipality as provided in section 3538.

[PL 1997, c. 698, §2 (NEW).]

4. Accounting. Revenue, expenditure and budget amounts must be determined in accordance with generally accepted accounting principles.

[PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3538. Warrant for taxes

1. Warrant. The directors shall issue their warrant in the same form as the warrant of the Treasurer of State for taxes, with proper changes, to the assessors of the municipalities comprising the district. The warrant must require the municipalities to assess the sum allocated to each municipality for payment of the costs of the district upon the taxable estates within those municipalities and to commit their assessment to the constable or collector of the municipalities. The constable or collector has all the authority and powers to collect these taxes as is vested by law to collect state, county and municipal taxes. Within 30 days after the date fixed by the municipality on which its taxes are due, the treasurer of the municipality shall pay the amount of the tax assessed under this section to the treasurer of the district.
[PL 1997, c. 698, §2 (NEW).]

2. Failure to pay. If the treasurer of a municipality fails to pay the sum assessed under this section, or fails to pay any part of the sum by the date set in the year in which the tax is levied, the treasurer of the district may issue a warrant for the amount of the tax, or so much of the tax as remains unpaid, to the sheriff of the appropriate county, requiring the sheriff to levy the tax by distress and sale on real and personal property of any of the inhabitants of the municipality. The sheriff or a deputy shall execute the warrant.
[PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3539. Changes in district territory

1. Addition to territory. After initial formation of a district, a municipality may join the district upon vote of the municipality's legislative body and upon a 2/3 vote of the board of directors. The board of directors shall determine the terms and conditions to be met by the joining municipality.
[PL 1997, c. 698, §2 (NEW).]

2. Withdrawal from district. By vote of its legislative body, a municipality may elect to withdraw from the district. Withdrawal must take effect at the end of a district fiscal year, after the municipality has given the board of directors at least one year's written notice of its intention to withdraw. The municipality shall pay its proportionate share of the current indebtedness of the district before withdrawal and shall agree by appropriate written document to pay its proportionate share of any long-term indebtedness of the district as that indebtedness becomes due and payable. During the period of notice, the withdrawing municipality does not become liable for any capital expenditures or borrowings that may be made by the district. The proportionate share of the withdrawing municipality in any current and long-term indebtedness of the district must be in accordance with the formula then in effect for payment of the current and long-term indebtedness.
[PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

§3540. Dissolution

At such time as a district has discharged all of its obligations and paid or provided for the payment of all of its bonded indebtedness, the board of directors, by 2/3 vote of its membership, may dissolve the district and dispose of all of its property, real and personal, in the manner authorized and directed by the board of directors. The treasurer of the district may execute any deeds, bills of sale or documents required for that purpose. All money, if any, remaining in the control of the treasurer of the district must be paid to the municipalities comprising the district as of the date of dissolution in accordance with the formula then in effect for the payment of any operating deficit. The officers of the district shall file notice of dissolution with the office of the Secretary of State as required in Title 13, section 937. [PL 1997, c. 698, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 698, §2 (NEW).

CHAPTER 165

LEASING OF AIR RIGHTS

§3551. Utilization of air rights

1. Lease authorized; proceeds. Except as provided in paragraph A, any municipality may lease at one time or from time to time for a term or terms not to exceed 99 years, upon any terms and conditions that the municipal officers consider advisable, air rights over public streets and ways, parking facilities and other public buildings, land and water, in which the public has a right of travel or in which the municipality holds less than a fee interest. These leases may be made for any nonmunicipal purpose which, in the opinion of the municipal officers, will not impair the construction, full use, safety, maintenance or repair of those streets and ways, facilities, buildings, land and water. The proceeds from any lease granted under this chapter shall be paid into the municipal treasury.

A. No lease of air rights may be granted under this chapter with regard to any dedicated park land, including rights for support, access, utilities, light and air. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any lease granted under this chapter for air rights over state and state aid highways must be approved by the Department of Transportation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Assignment, pledge or mortgage; reversionary rights. Any lease granted under this chapter may, with the consent of the municipal officers, be assigned, pledged or mortgaged and the lien of that pledge or mortgage may be foreclosed by appropriate action. Any lease granted under this chapter for air rights over public streets and ways in which the municipalities own an easement, but not a fee interest, does not affect the reversionary rights, if any, of the holder of the fee in the public street or way.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Fee interests unaffected. This chapter does not reduce the right of a municipality holding a fee interest in streets, ways, facilities, buildings, land or water from conveying air rights in fee or by lease. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3552. Applicability of building and other laws

The construction or occupancy of any structure erected or affixed under any lease under this chapter is subject to the building, fire, garage, health and zoning ordinances, bylaws and regulations applicable in the municipality. Any structure erected over or affixed to any public street or way under this chapter is valid and declared a legal structure. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3553. Taxation

1. Structures taxed. Any structure erected or affixed under any lease granted under this chapter shall be taxed to the lessee or the assigns in the same manner and to the same extent as if the lessee or the assigns were the owners of the land in fee, except that no part of the value of the land may be included in the assessment. The municipality may exercise all remedies provided generally for the collection of taxes. Any such leasehold estate may be sold or taken by the municipality for the nonpayment of any taxes assessed under this section in the manner provided by law for the sale or taking of real estate for nonpayment of local taxes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Payment instead of taxes. The municipality shall include in any lease granted under this chapter a provision in which the lessee agrees, if subsection 1 is determined by a court of competent jurisdiction to be inapplicable, to pay annually to the municipality a sum of money instead of the taxes which would otherwise be assessed on the lease in that year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3554. Parties in interest

Each lease made under this chapter must require that the lessee file with the municipality a statement under oath containing the names and addresses of the officers and directors, in the case of a corporation, and, in the case of a partnership or other voluntary association, the names and addresses of all persons having a financial interest in the lease. A copy of all leases granted by the municipality shall be kept on file and shall be open to public inspection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3555. Limitations

Municipalities shall not execute any leases which would: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Impair use of highway. Impair the use and safety of any highway;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Used solely for advertising. Be solely for outdoor advertising structures; or
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Violate Federal Aviation Agency regulations. Violate any regulations promulgated by the Administrator of the Federal Aviation Agency.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 167

MUNICIPAL RENT CONTROL

§3601. Declaration of emergency

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 194, §1 (RP).

§3602. Acceptance

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 194, §1 (RP).

§3603. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 194, §1 (RP).

§3604. Local rent board or administrator

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 194, §1 (RP).

§3605. Maximum rent adjustment

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A32,A33,C8 C10 (AMD). PL 1995, c. 194, §1 (RP).

§3606. Judicial review

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 194, §1 (RP).

SUBPART 6

REGULATION, LICENSES AND PERMITS

CHAPTER 181

GENERAL PROVISIONS

§3701. Municipal licensing authority

The municipal officers are the licensing authority of a municipality, unless otherwise provided by charter, ordinance or law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3702. Fees for licenses or permits

Unless otherwise provided by law, any fee established by a municipality for any license or permit under this subpart must reasonably reflect the municipality's costs associated with the license or permit procedure and enforcement. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3703. Production of licenses or permits

The municipal officers may not require a licensee or permittee to publicly display the licensee's or permittee's license or permit on the premises to which that license or permit applies. The municipal officers may require a licensee or permittee to make available for inspection the license or permit at the premises to which the license or permit applies. [PL 2011, c. 535, §4 (NEW).]

SECTION HISTORY

PL 2011, c. 535, §4 (NEW).

CHAPTER 183

ECONOMIC REGULATION

SUBCHAPTER 1

JUNKYARDS AND AUTOMOBILE GRAVEYARDS

§3751. Purpose

Junkyards and so-called "auto graveyards" have been steadily expanding and frequently encroach upon highways. These junkyards and graveyards have become a nuisance and a menace to safe travel on public ways, often distracting the attention of drivers of motor vehicles because it appears cars are parked on the highway or that an accident has occurred. It is declared that such junkyards and automobile graveyards are a nuisance and are properly subject to regulation and control. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

It is recognized that recycling of automobiles is a business enterprise that, when conducted in accordance with certain standards, differs from the enterprise of an automobile graveyard and that adoption of uniform state standards for this type of business enterprise would assist in development and regulation of that business. [PL 1993, c. 173, §1 (NEW).]

Junkyards, automobile graveyards and automobile recycling businesses pose potential risks to the environment, particularly to groundwater and surface water quality if gasoline, oil or other fluids are not managed and disposed of properly. Proper location and operation of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of Maine citizens. These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly. For these reasons, it is declared that these facilities are appropriately subject to certain environmental and operational standards and to appropriate municipal and state regulation. [PL 2003, c. 312, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 173, §1 (AMD). PL 2003, c. 312, §2 (AMD).

§3752. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Automobile graveyard. "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. "Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area. [PL 2005, c. 424, §1 (AMD).]

[PL 2005, c. 424, §1 (AMD).]

1-A. Automobile recycling business. "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. "Automobile recycling business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;

(2) Insurance companies licensed to do business in the State;

(3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or

(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business. [PL 2003, c. 312, §4 (NEW).]

[PL 2003, c. 312, §4 (AMD).]

2. Highway. "Highway" means any public way.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Interstate System. "Interstate System" means those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of Transportation.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Junkyard. "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture; [PL 2003, c. 312, §5 (AMD).]

B. Discarded, scrap and junked lumber; and [PL 2003, c. 312, §5 (AMD).]

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material. [PL 2003, c. 312, §5 (AMD).]

D. [PL 2003, c. 312, §5 (RP).]

[PL 2003, c. 312, §5 (AMD).]

5. Primary System. "Primary System" means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Recycling or recycling operations.

[PL 2003, c. 312, §6 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 745, §1 (AMD). PL 1993, c. 173, §§2,3 (AMD). PL 1995, c. 65, §A130 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2003, c. 312, §§3-6 (AMD). PL 2005, c. 424, §1 (AMD).

§3753. Permit required

A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year; except that, beginning in calendar year 2004, permits issued to an automobile graveyard or junkyard under this section are valid until the first day of October of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business. [PL 2003, c. 312, §7 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 173, §4 (AMD). PL 2003, c. 312, §7 (AMD).

§3754. Hearings

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish a new automobile graveyard, automobile recycling business or junkyard and may hold public hearings annually regarding the relicensing of these facilities. Municipal officers or county commissioners shall require an applicant to provide proof of mailing the notice of the application to all abutting property owners. Municipal officers or county commissioners

shall also post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written or electronic notice of the application to establish a new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least 7 and not more than 30 days before the hearing. The municipal officers or county commissioners shall give written notice of the application to the public water supplier if the application is for an automobile graveyard, automobile recycling business or junkyard located within the supplier's source water supply area. The notice may be given by mailing a copy of the application at least 7 and not more than 14 days before the hearing. [PL 2005, c. 424, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 173, §4 (AMD). PL 1999, c. 761, §5 (AMD). PL 2003, c. 312, §8 (AMD). PL 2005, c. 424, §2 (AMD).

§3754-A. Limitations on graveyard, automobile recycling business and junkyard permits

1. Highways; Interstate System and Primary System. A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

(1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;

(2) Well constructed and properly maintained at a minimum height of 6 feet;

(3) Placed outside of the highway right-of-way; and

(4) Acceptable to the municipal officers or county commissioners; and [PL 2003, c. 312, §9 (NEW).]

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System. [PL 2003, c. 312, §9 (NEW).]

[PL 2003, c. 312, §9 (NEW).]

2. Limitation on new permits. A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.
[PL 2003, c. 312, §9 (NEW).]

3. Public facilities. A new permit may not be granted for an automobile graveyard or junkyard that is:

A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and [PL 2003, c. 312, §9 (NEW).]

B. Within ordinary view from a facility under paragraph A. [PL 2003, c. 312, §9 (NEW).]

[PL 2003, c. 312, §9 (NEW).]

4. Public and private water supplies. A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.
[PL 2005, c. 424, §3 (AMD).]

5. Operating standards. All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water; [PL 2005, c. 247, §1 (AMD); PL 2005, c. 247, §7 (AFF).]

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer; [PL 2003, c. 312, §9 (NEW).]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [PL 2005, c. 247, §2 (AMD); PL 2005, c. 247, §7 (AFF).]

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade; [PL 2005, c. 683, Pt. A, §51 (RPR).]

E. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed; [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

F. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1,

2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable; [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

[PL 2005, c. 683, Pt. A, §51 (AMD).]

6. Rules. A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers or county commissioners may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit.

[PL 2003, c. 312, §9 (NEW).]

6-A. Relationship to state storm water requirements. After October 30, 2005, municipal officers or county commissioners may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:

A. A notice of intent has been filed with the Department of Environmental Protection to comply with the general permit provisions for storm water discharges; or [PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required. [PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

[PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

7. Local ordinances. This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

A. Compliance with state and federal solid waste and hazardous waste regulations; [PL 2003, c. 312, §9 (NEW).]

B. Fire and traffic safety; [PL 2003, c. 312, §9 (NEW).]

C. Levels of noise that can be heard outside the premises; [PL 2003, c. 312, §9 (NEW).]

D. Distance from existing residential or institutional uses; [PL 2003, c. 312, §9 (NEW).]

E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and [PL 2003, c. 312, §9 (NEW).]

F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection. [PL 2003, c. 312, §9 (NEW).]

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.
[PL 2003, c. 312, §9 (NEW).]

8. Applicability. Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.
[PL 2003, c. 312, §9 (NEW).]

9. Right of entry. Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and [PL 2003, c. 312, §9 (NEW).]

B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter. [PL 2003, c. 312, §9 (NEW).]

A municipal officer's or designee's entry onto property under this subsection is not a trespass.
[PL 2003, c. 312, §9 (NEW).]

10. Standard for permit. The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5.
[PL 2005, c. 424, §5 (NEW).]

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit. [PL 2005, c. 424, §6 (NEW).]

SECTION HISTORY

PL 2003, c. 312, §9 (NEW). PL 2005, c. 247, §§1-4 (AMD). PL 2005, c. 247, §7 (AFF). PL 2005, c. 424, §§3-6 (AMD). PL 2005, c. 683, §A51 (AMD).

§3755. Limitations on graveyard, automobile recycling business and junkyard permits

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 745, §2 (AMD). PL 1993, c. 173, §5 (AMD). PL 2003, c. 312, §10 (RP).

§3755-A. Automobile recycling business permits; operation standards

1. Application. An application for an automobile recycling business permit must include the following information:

A. The name and address of the property owner; [PL 1993, c. 173, §6 (NEW).]

B. The name and address of the person or entity who will operate the site; and [PL 1993, c. 173, §6 (NEW).]

C. A site plan, including:

(1) Property boundary lines;

(2) A description of the soils on the property;

(3) The location of any sand and gravel aquifer recharge areas;

(4) The location of any residence or school within 500 feet of where the cars will be stored;

(5) The location of any body of water on the property or within 200 feet of the property lines;

(6) The boundaries of the 100-year flood plain;

(7) The location of all roads within 1,000 feet of the site;

(8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and

(9) The location within the property boundary lines where vehicles are drained, dismantled or stored. [PL 1993, c. 173, §6 (NEW).]

[PL 1993, c. 173, §6 (NEW).]

2. Standards for permit. The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3. [PL 1993, c. 173, §6 (NEW).]

3. Operation standards. An automobile recycling business licensed under this section must meet the following standards.

A. The site of the yard must be enclosed by a visual screen that complies with the screening requirements of section 3754-A. [PL 2003, c. 312, §11 (AMD).]

B. A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5. [PL 2003, c. 312, §11 (AMD).]

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued. [PL 1993, c. 173, §6 (NEW).]

D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area. [PL 1993, c. 173, §6 (NEW).]

E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain. [PL 1993, c. 173, §6 (NEW).]

F. Except as provided in subsection 3754-A, subsection 4, a vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence. [PL 2003, c. 312, §11 (AMD).]

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner. [PL 1993, c. 173, §6 (NEW).]

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) Batteries must be removed.

(2) All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable. [PL 2005, c. 683, Pt. A, §52 (AMD).]

[PL 2005, c. 683, Pt. A, §52 (AMD).]

4. Revocation or suspension of permit. For purposes of section 3758-A, subsection 5, each of the standards set forth in this section are conditions of a permit.

[RR 2003, c. 1, §32 (COR).]

5. Relationship to automobile graveyard permit. A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit.

[PL 1993, c. 173, §6 (NEW).]

SECTION HISTORY

PL 1993, c. 173, §6 (NEW). RR 2003, c. 1, §32 (COR). PL 2003, c. 312, §11 (AMD). PL 2005, c. 247, §5 (AMD). PL 2005, c. 247, §7 (AFF). PL 2005, c. 683, §A52 (AMD).

§3756. Permit fees

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Graveyard or junkyard. Fifty dollars for each application for an automobile graveyard or junkyard plus the cost of posting and publishing the notice under section 3754;

[PL 2005, c. 424, §7 (AMD).]

2. Graveyard or junkyard within 100 feet from highway.

[PL 2003, c. 312, §12 (RP).]

3. Recycling business. Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754; or

[PL 2003, c. 312, §12 (AMD).]

4. Fee. A fee as otherwise established by municipal ordinance or rule.

[PL 2003, c. 312, §12 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 173, §7 (AMD). PL 2003, c. 312, §12 (AMD). PL 2005, c. 424, §7 (AMD).

§3757. Provisions regarding nuisances unaffected

This subchapter shall not be construed as in any way repealing, invalidating or abrogating Title 17, section 2802, or limiting the right of prosecutions under that section. Violation of this subchapter in the establishment, maintenance or operation of any automobile graveyard or junkyard constitutes prima facie evidence that the yard is a nuisance as defined in Title 17, section 2802. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3758. Violation

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 824, §B8 (AMD). PL 1993, c. 173, §8 (AMD). PL 2003, c. 312, §13 (RP).

§3758-A. Violations

1. Enforcement. All state, county and local law enforcement officers shall enforce the provisions of this subchapter.
[PL 2003, c. 312, §14 (NEW).]

2. Municipal authority. Municipal officers or their designees may enforce the provisions of this subchapter pursuant to:

A. The enforcement of land use laws and ordinances under section 4452; [PL 2003, c. 312, §14 (NEW).]

B. The litter control provisions of Title 17, chapter 80; or [PL 2003, c. 312, §14 (NEW).]

C. The abatement of nuisance provisions of Title 17, chapter 91. [PL 2003, c. 312, §14 (NEW).]
[PL 2003, c. 312, §14 (NEW).]

3. Penalties. Violations of this subchapter are subject to the penalty provisions of section 4452; Title 17, sections 2264-A and 2264-B; or Title 17, chapter 91. Each day that the violation continues constitutes a separate offense.
[PL 2003, c. 312, §14 (NEW).]

4. Abatement. If the municipality is the prevailing party in an action taken pursuant to the provisions of this Title or Title 17 as outlined in subsection 2 and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or designated agent may enter the property and may act to abate the site in compliance with the order. To recover any actual and direct expenses incurred by the municipality in the abatement of the nuisance, the municipality may:

A. File a civil action against the owner to recover the cost of abatement, including the expense of court costs and reasonable attorney's fees necessary to file and conduct the action; [PL 2003, c. 312, §14 (NEW).]

B. File a lien on real estate where the junkyard, automobile graveyard or automobile recycling business is located; or [PL 2003, c. 312, §14 (NEW).]

C. Assess a special tax on real estate where the junkyard, automobile graveyard or automobile recycling business is located. This amount must be included in the next annual warrant to the tax collector of the municipality, for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505 in the year in which the special tax is assessed accrues on all unpaid balances of the special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest must be added to and becomes a part of the tax. [PL 2003, c. 312, §14 (NEW).]

[PL 2003, c. 312, §14 (NEW).]

5. Revocation or suspension of permit. Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.

[PL 2005, c. 424, §8 (AMD).]

6. Removal of all materials after permit denial or revocation. The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals. An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers or county commissioners.

[PL 2003, c. 312, §14 (NEW).]

SECTION HISTORY

PL 2003, c. 312, §14 (NEW). PL 2005, c. 424, §8 (AMD).

§3759. Rules

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 312, §15 (RP).

§3760. Relocation, removal, disposal, compensation and condemnation

1. Acquisition of land. If the Department of Transportation determines that the topography of the land adjacent to any portion of a highway incorporated in the Interstate or Primary Systems does not permit adequate screening under section 3754-A, subsection 1 or that adequate screening is not economically feasible, it may acquire by gift, purchase or condemnation any interests in property that are necessary to secure the relocation, removal or disposal of the automobile graveyards or junkyards.

[PL 2003, c. 312, §16 (AMD).]

2. Compensation. In the case of such acquisition, just compensation shall be paid to the owner for the relocation, removal or disposal of the following automobile graveyards and junkyards:

A. Those which were operating and in existence on May 11, 1966 and located in areas adjacent to any portion of a highway incorporated in the Interstate or Primary Systems, which exceed federal restrictions and for which federal funds are available to defray the costs; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Those in operation along any highway made a part of the Interstate or Primary Systems on or after May 11, 1966; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Those in operation and established on or after May 11, 1966. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections 153-A to 159.
[PL 1993, c. 536, §4 (AMD).]

4. Use of federal funds. This section does not prevent the department from participating with the owner when federal funds are available to defray costs of screening junkyards whenever it is determined to be more feasible to screen rather than to be involved in the cost or impact of acquisition and relocation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 536, §4 (AMD). PL 2003, c. 312, §16 (AMD).

SUBCHAPTER 1-A

SCRAP METAL PROCESSORS

§3771. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 549, §1 (NEW).]

1. Beverage container. "Beverage container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer and contained, at the time of sale, a beverage, as defined by Title 38, section 3102, subsection 1, but does not include a beer keg.
[PL 2015, c. 166, §9 (AMD).]

2. Nonferrous metal. "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous metal" includes the following metals and their alloys:

A. Copper; [PL 2007, c. 549, §1 (NEW).]

B. Brass; [PL 2007, c. 549, §1 (NEW).]

C. Aluminum; [PL 2007, c. 549, §1 (NEW).]

D. Bronze; [PL 2007, c. 549, §1 (NEW).]

E. Lead; [PL 2007, c. 549, §1 (NEW).]

F. Zinc; [PL 2007, c. 549, §1 (NEW).]

G. Nickel; and [PL 2007, c. 549, §1 (NEW).]

H. Platinum. [PL 2007, c. 549, §1 (NEW).]

[PL 2007, c. 549, §1 (NEW).]

3. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[PL 2007, c. 549, §1 (NEW).]

4. Scrap metal. "Scrap metal" means metal that can be recycled, including, but not limited to, bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

[PL 2007, c. 549, §1 (NEW).]

5. Scrap metal processor. "Scrap metal processor" means a person that purchases scrap metal for resale or recycling.

[PL 2011, c. 545, §1 (AMD).]

6. Seller. "Seller" means any person that receives in a transaction monetary consideration from a scrap metal processor in exchange for nonferrous metal, iron or steel, including stainless steel. "Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale scrap metal generated in a manufacturing or production process to a scrap metal processor.

[PL 2007, c. 549, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 549, §1 (NEW). PL 2011, c. 545, §1 (AMD). PL 2015, c. 166, §9 (AMD).

§3772. Records of purchases maintained by scrap metal processors

1. Maintenance of records requirement. Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction.

[PL 2011, c. 545, §2 (AMD).]

1-A. Form and method of payment. A scrap metal processor shall provide payment to a seller only in the form of a credit card, as defined in Title 9-A, section 1-301, subsection 16, a debit card, as defined in Title 10, section 1271, subsection 3, or a check. If payment is made by check, the scrap metal processor shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

[PL 2013, c. 141, §1 (AMD).]

2. Exception. A scrap metal processor doing business in the State is not required to maintain individual records for a series of scrap metal purchase transactions made pursuant to a written contract or bill of sale.

[PL 2007, c. 549, §1 (NEW).]

3. Information required. The record of each scrap metal purchase transaction required under subsection 1 must be on a form prescribed by the Commissioner of Public Safety and contain the following information:

A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a driver's license, military identification card, passport or

other form of government-issued photo identification. The scrap metal processor shall photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor shall photograph the seller. A scrap metal processor shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor to record the information one time and relate future purchase records to that information; [PL 2011, c. 545, §4 (AMD).]

B. The date of the scrap metal purchase transaction; [PL 2007, c. 549, §1 (NEW).]

C. A general description of the predominant types of scrap metal purchased, which must be made in accordance with the custom of the trade; [PL 2007, c. 549, §1 (NEW).]

D. A general description of the configuration of the scrap metal and whether the material is insulated; [PL 2007, c. 549, §1 (NEW).]

E. The weight, quantity or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased; [PL 2007, c. 549, §1 (NEW).]

F. The consideration paid; [PL 2011, c. 545, §5 (AMD).]

G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453; and [PL 2011, c. 545, §6 (AMD).]

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal. [PL 2011, c. 545, §7 (NEW).]

[PL 2015, c. 206, §10 (AMD).]

SECTION HISTORY

PL 2007, c. 549, §1 (NEW). PL 2011, c. 545, §§2-7 (AMD). PL 2013, c. 141, §1 (AMD). PL 2015, c. 206, §10 (AMD).

§3773. Maintenance of records and statements

The records required under section 3772, subsection 3 must be: [PL 2007, c. 549, §1 (NEW).]

1. Retain for one year. Retained for a period of one year; and

[PL 2007, c. 549, §1 (NEW).]

2. Availability. Made available to any law enforcement office of the State or of any municipality or county.

[PL 2007, c. 549, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 549, §1 (NEW).

§3774. Application

This subchapter does not apply to transactions involving only beverage containers. [PL 2007, c. 549, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 549, §1 (NEW).

§3775. Restrictions on the purchase and sale of scrap metal

A seller may not sell and a scrap metal processor may not purchase the following scrap metal unless the seller provides to the scrap metal processor, in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal: [PL 2007, c. 549, §1 (NEW).]

1. Marked with certain initials. Scrap metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;
[PL 2007, c. 549, §1 (NEW).]

2. Utility access covers. Utility access covers;
[PL 2007, c. 549, §1 (NEW).]

3. Street lights. Street light poles and fixtures;
[PL 2007, c. 549, §1 (NEW).]

4. Guard rails. Road and bridge guard rails;
[PL 2007, c. 549, §1 (NEW).]

5. Street signs. Highway or street signs;
[PL 2007, c. 549, §1 (NEW).]

6. Water meter covers. Water meter covers;
[PL 2007, c. 549, §1 (NEW).]

7. Beer kegs. Metal beer kegs or keg pieces including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or keg pieces may not be sold or purchased pursuant to this subchapter if the brewer's markings have been obliterated or made illegible;
[PL 2007, c. 549, §1 (NEW).]

8. Traffic signs. Traffic directional and control signs;
[PL 2007, c. 549, §1 (NEW).]

9. Traffic signals. Traffic light signals;
[PL 2007, c. 549, §1 (NEW).]

10. Marked; governmental entity. Any scrap metal marked with the name of a governmental entity;
[PL 2007, c. 549, §1 (NEW).]

11. Marked; utility or railroad. Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;
[PL 2007, c. 549, §1 (NEW).]

12. Certain construction or utility materials. Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;
[PL 2007, c. 549, §1 (NEW).]

13. Historical markers. Historical markers;
[PL 2007, c. 549, §1 (NEW).]

14. Grave markers. Grave markers and vases; and
[PL 2007, c. 549, §1 (NEW).]

15. Catalytic converters. Catalytic converters.
[PL 2007, c. 549, §1 (NEW).]

This section does not apply to transactions in which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor. [PL 2007, c. 549, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 549, §1 (NEW).

§3775-A. Holding period; inspection

1. Seven-day hold. If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, which may not exceed 7 days, that the scrap metal processor must retain the identified scrap metal. [PL 2011, c. 545, §8 (NEW).]

2. Additional 7-day hold. Prior to the expiration of the time period of the hold pursuant to subsection 1, a law enforcement officer may impose an additional hold period, which may not exceed 7 days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.
[PL 2011, c. 545, §8 (NEW).]

SECTION HISTORY

PL 2011, c. 545, §8 (NEW).

§3776. Sales by minors

1. Prohibition. A scrap metal processor may not purchase scrap metal from a minor unless:

A. The minor is accompanied by the minor's parent or guardian; and [PL 2007, c. 549, §1 (NEW).]

B. The parent or guardian provides a written statement to the scrap metal processor that the transaction is taking place with the parent's or guardian's full knowledge and consent. [PL 2007, c. 549, §1 (NEW).]
[PL 2007, c. 549, §1 (NEW).]

2. Retention of statement. A scrap metal processor shall preserve and keep on file and make available for inspection to any law enforcement office of the State or of any municipality or county the written statement required by subsection 1, paragraph B for not less than 3 years.
[PL 2007, c. 549, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 549, §1 (NEW).

§3777. Penalties

(REPEALED)

SECTION HISTORY

PL 2007, c. 549, §1 (NEW). PL 2011, c. 545, §9 (RP).

§3778. Violation; penalties

1. Violation. A person may not violate this subchapter.
[PL 2011, c. 545, §10 (NEW).]

2. Penalties. In addition to any other penalties provided by law, the following penalties apply to violations of this subchapter:

A. A person who violates this subchapter commits a civil violation for which a fine of $1,000 must be adjudged; [PL 2011, c. 545, §10 (NEW).]

B. A person who violates this subchapter after having previously been adjudicated of violating this subchapter commits a civil violation for which a fine of $3,000 must be adjudged; and [PL 2011, c. 545, §10 (NEW).]

C. A person who violates this subchapter after having previously been adjudicated of violating this subchapter more than once commits a civil violation for which a fine of $4,500 must be adjudged and is prohibited from acting as a scrap metal processor for 6 months. [PL 2011, c. 545, §10 (NEW).]

[PL 2011, c. 545, §10 (NEW).]

SECTION HISTORY

PL 2011, c. 545, §10 (NEW).

SUBCHAPTER 2

CLOSING-OUT SALES

§3781. License requirements

A retail establishment located in a municipality that has adopted a licensing ordinance pursuant to this section may not offer for sale a stock of goods, wares or merchandise under the designation of "closing-out sale," "going out of business sale," "discontinuance of business sale," "entire stock must go," "must sell to the bare walls" or other designation that states, directly or by implication, an intent of that person to dispose of the entire stock of goods with a view to permanently terminating further business after that disposal is complete, unless the person complies with the following requirements. [PL 2013, c. 595, Pt. U, §9 (AMD).]

1. Inventory license. Before the disposal sale begins, the person must obtain a license to conduct the sale from the municipal officers of the municipality in which the sale will be conducted or other designated licensing official as provided by ordinance.

A. The person must apply to the municipal officers or designated licensing official for the license under oath. The application must contain a complete inventory of all items to be included in the sale and must be accompanied by the payment of a license fee set by ordinance. The applicant must affirm, in writing and under oath, to the municipal officers or designated licensing official that merchandise will not be included in the stock offered for sale unless the merchandise is in or at the place of business where the sale will take place when the sale opens. Any unusual purchases and additions to the stock of goods, wares or merchandise made within 60 days before the filing of an application for a license is prima facie evidence that the purchases and additions were made in contemplation of the sale.

(1) If the applicant has been in the same business for which the sale is being conducted for less than 2 years of continuous operation in the municipality, the applicant must also affirm, in writing and under oath, that none of the merchandise was purchased before the sale opened for the purpose of selling and disposing of that merchandise at the sale. [PL 2013, c. 595, Pt. U, §9 (AMD).]

B. The license is valid for 60 days from the date of issuance, unless revoked under subsection 3. The validity of the license may be extended for 60 additional days if the licensee provides an affidavit to the municipal officers or designated licensing official stating that all goods, wares or merchandise listed in the inventory have not been disposed of within the original 60-day period. [PL 2013, c. 595, Pt. U, §9 (AMD).]

[PL 2013, c. 595, Pt. U, §9 (AMD).]

2. License issued; records preserved. The municipal officers or designated licensing official shall immediately issue the license upon compliance with this section. The municipality shall preserve all applications for licenses and other papers filed in connection with an application as a public record in the municipal office for 5 years.
[PL 2013, c. 595, Pt. U, §9 (AMD).]

3. Revocation; prior violations; suspension. The municipal officers or designated licensing official shall revoke any license issued under this subchapter if the licensee violates this section or a licensing ordinance adopted pursuant to this section and may refuse to issue another license to any applicant who has been adjudicated of violating this section or a licensing ordinance before the date of application. If any person adjudicated of any violation of this section appeals the decision or sentence of the trial court, that person's license must be suspended while the appeal is pending in the appellate court.
[PL 2013, c. 595, Pt. U, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2, C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8, 10 (AMD). PL 2013, c. 595, Pt. U, §9 (AMD).

§3782. Continuation of business

After the termination date of the sale and any extension granted under section 3781, subsection 1, paragraph B, the person to whom the license was granted may not continue the business under the same or a different name, at the same location or elsewhere in the same municipality, contrary to the designation of the sale. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3783. Limitations

This subchapter does not apply to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Public auctions. Liquidation sales by public auction of not more than 3 days duration conducted by a licensed auctioneer;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Sheriffs' sales. Sales conducted or made by sheriffs, deputy sheriffs, constables, collectors of taxes, executors, administrators, guardians, conservators, receivers, assignees under voluntary assignments for the benefit of creditors or insurers; or
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Sale of personal property. Sales by any other person required by law to sell personal property.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3784. Violations and penalties

Notwithstanding Title 17-A, section 4-A, any licensee under section 3781, who fails to comply with that section, or any person who conducts such a disposal sale without first having obtained a license, is guilty of a Class E crime and shall be punished by a fine of not more than $100 or by imprisonment for not more than 30 days, or both. Each day on which a sale is conducted in violation of this subchapter constitutes a separate offense. In addition to the penalties set forth, the Superior Court has jurisdiction, upon the complaint of any person, to enjoin any sale, or other acts, being performed in violation of section 3781. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 3

INNKEEPERS, VICTUALERS AND LODGING HOUSES

ARTICLE 1

GENERAL PROVISIONS

§3801. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Innkeeper. "Innkeeper" means a person who keeps an inn, hotel or motel to provide lodging to travelers and others for compensation and who maintains the sleeping accommodations. An innkeeper is not a landlord pursuant to the landlord and tenant laws as provided in Title 14.
[PL 2013, c. 209, §1 (AMD).]

2. Licensing board. "Licensing board" means the municipal officers of a municipality, as provided in section 3812.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Lodging house. "Lodging house" means a house where lodgings are rented, but does not include:

A. A house where lodgings are rented to fewer than 5 lodgers;

(1) The term "lodger" does not include persons within the 2nd degree of kindred to the person operating the lodging house; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The dormitories of charitable, educational or philanthropic institutions; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The emergency use of private dwelling houses at the time of conventions or similar public gatherings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Victualer. "Victualer" means a person who serves food or drink prepared for consumption on the premises by the public.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 209, §1 (AMD).

§3802. Posting of rates; liability for overcharge

1. Maximum rate schedule. Every keeper of a hotel, inn, boardinghouse or lodging house shall post in every bedroom:

A. A schedule of the maximum daily rates for that room for occupancy by one or more persons; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any requirement for a minimum number of days for which that room must be rented. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Overcharge liability. No keeper may charge or collect a sum greater than the rate shown in the posted schedule. Any keeper who charges or collects more than the rate shown in the posted schedule is liable to the person so charged or who paid the bill in an amount equal to the total amount of the bill collected minus the rate shown in the posted schedule.
[PL 2005, c. 185, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2005, c. 185, §1 (AMD).

ARTICLE 2

LICENSES

§3811. License required

A person may not be a common innkeeper or tavernkeeper without a license. A person who violates this section commits a civil violation for which a forfeiture of not more than $50 may be adjudged. [PL 1997, c. 446, §1 (AMD).]

1. Lodging houses; licenses. The municipal officers may enact ordinances requiring lodging houses to be licensed. These licenses may be issued by the licensing board under section 3812 and are subject to the same expiration dates provided in that section.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 446, §1 (AMD).

§3812. Licensing board; granting and revocation of licenses

1. Licensing board. The municipal officers of every municipality shall serve as the licensing board for the issuance of innkeepers' and tavernkeepers' licenses.
[PL 1997, c. 446, §2 (AMD).]

2. Meetings. The licensing board shall meet as provided in this subsection.

A. They shall meet annually during the month of May on a date and at a time and place in the municipality that they determine. At least 7 days before the meeting, they must post notices stating the purpose of the meeting in at least 2 public places in the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The licensing board may meet at any other time at a meeting specially called and with public notice as provided in paragraph A. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Issuance and revocation of licenses. At any meeting held under subsection 2, the licensing board may do the following.

A. The board may license as many persons of good moral character to be innkeepers or tavernkeepers in the municipality as it considers necessary.

(1) The license must specify the building in which the business will be conducted.

(2) The board may issue the license under any restrictions and regulations that it considers necessary. [PL 1997, c. 446, §3 (AMD).]

B. The board may revoke any license previously granted under this section as provided in section 3814. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1997, c. 446, §3 (AMD).]

4. License expiration. All licenses granted under this section expire one year after issuance.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 446, §§2,3 (AMD).

§3813. Fee

Every person licensed as an innkeeper or tavernkeeper shall pay to the treasurer for the use of the municipality a fee of $1 and any additional amount established by ordinance or bylaw of the municipality. [PL 1997, c. 446, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 446, §4 (AMD).

§3814. Revocation or suspension of license; hearing; appeal

1. Applicability. This section applies to all licenses issued by the licensing authorities authorized under this subchapter and section 3931.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Revocation or suspension of license. The licensing authority designated in this subchapter and section 3931 shall enforce this subchapter and section 3931 and shall prosecute all offenders. If the licensing authority is satisfied that the licensee is unfit to hold a license, it may revoke the license at any time. For any cause which it considers satisfactory, the licensing authority may suspend a license for any period of time that it considers proper.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Hearing. A license may not be revoked or suspended under subsection 2 until after investigation and hearing. The licensing authority shall serve notice of the hearing on the licensee or leave it at the licensed premises at least 3 days before the time set for hearing. At the hearing, the licensee must be given an opportunity to:

A. Hear the evidence in support of the charge against the licensee and to cross-examine, alone or through counsel, the witnesses; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Be heard in the licensee's own defense. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Appeal. Appeal from the decision of the licensing authority to the Superior Court in the county in which the licensing authority is located may be obtained in the manner provided in the Maine Rules of Civil Procedure. Courts of competent jurisdiction, for due cause shown, may issue temporary orders restraining the enforcement of revocations or suspensions, and after full hearing may vacate those temporary orders or make them permanent.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 3

REGISTRATION OF GUESTS

§3821. Register; contents; inspection; penalty

1. Register of guests. Every person conducting a hotel or lodging house shall have a register kept and maintained in the hotel or lodging house at all times. The name of every guest or person renting a room or rooms in the hotel or lodging house must be written in the register. The person renting the room or rooms, or someone under that person's direction, shall sign the register. The proprietor of the hotel or lodging house, or the proprietor's agent, shall then write the number of each room assigned to each guest, together with the date that room is rented, opposite the name or names so registered. A guest of a hotel or lodging house is not a tenant pursuant to the landlord and tenant laws as provided in Title 14.
[PL 2013, c. 209, §2 (AMD).]

2. Record of departures. The proprietor or the proprietor's agent shall keep and maintain a record showing the date when the occupant of each room surrenders the room. This record may be made a part of the register.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Availability for inspection. Both the register and the record must be kept for 2 years and be available at all reasonable times to the inspection of any lawful agent of the licensing authority. The guest register may be "kept," within the meaning of this section, when reproduced on any photographic, microfilm or other process that reproduces the original record.
[PL 2017, c. 432, Pt. F, §1 (AMD).]

4. Violation and penalty. Notwithstanding Title 17-A, section 4-A, any person who willfully violates this section is guilty of a Class E crime and shall be punished by a fine of not less than $100 nor more than $500, or by imprisonment for not more than 90 days for each offense, or both.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 88, §1 (AMD). PL 2005, c. 185, §2 (AMD). PL 2005, c. 397, §A30 (AMD). PL 2013, c. 209, §2 (AMD). PL 2017, c. 432, Pt. F, §1 (AMD).

§3822. Register of true name

1. Registration. All persons renting a room or rooms in a hotel or lodging house must register or have themselves registered in the hotel or lodging house register. The innkeeper may require the registering guest to produce a valid driver's license, or other identification satisfactory to the innkeeper, setting forth the name and residence of the guest. If the guest is a minor, the innkeeper may require a parent of the guest to register and to accept in writing liability for the guest room costs, taxes, all charges incurred by the minor and any damages to the guest room or its furnishings caused by the minor while a guest at the hotel or lodging house.
[PL 2005, c. 185, §3 (AMD).]

2. True name required. No person may write, or have written by another person in any hotel or lodging house register, any name or designation other than the true name or names ordinarily used by that person. No person in charge of a hotel or lodging house register may knowingly permit any name or designation to be written other than the true name or names in ordinary use of the person registering or being registered by another person.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Penalty. Any person who violates this section commits a civil violation for which a forfeiture of not less than $10 nor more than $25 may be adjudged for each offense.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 88, §2 (AMD). PL 2005, c. 185, §3 (AMD).

§3823. Posting of law near register

The licensing authority may require all licensed innkeepers and all licensees under section 3811 to post a notice furnished under this section in a conspicuous place near the register. The licensing authority shall provide this notice which shall contain the text of sections 3821 and 3822, relating to

the entry of names in the register, together with the penalties provided in those sections for their violations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 4

DUTIES AND OBLIGATIONS

§3831. Innkeepers

Every innkeeper shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers. The innkeeper shall grant such reasonable accommodations as occasion requires to strangers, travelers and others. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3832. Victualers

Every victualer has all the rights and privileges and is subject to all the duties and obligations of an innkeeper, except furnishing lodging for travelers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3833. Gambling prohibited

1. Prohibited games and activities. No innkeeper or victualer may:

A. Have or keep for gambling purposes about the business establishment any dice, cards, bowls, billiards, quoits or other implements used in gambling; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Allow any person resorting to the establishment to use for gambling purposes any of the games under subsection 1, or any other illegal game or sport in the establishment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Penalty. Any person who uses any game or sport prohibited by this section for gambling purposes in any prohibited establishment commits a civil violation for which a forfeiture of $5 may be adjudged.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3834. Disorderly conduct prohibited

1. Prohibited conduct. No innkeeper, hotelkeeper, boardinghouse keeper, lodging house keeper, campground operator or keeper or victualer may allow any reveling, riotous or disorderly conduct, drunkenness or excess in the inn, hotel, boardinghouse, lodging house, restaurant, shop or other premises.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Penalty. Notwithstanding Title 17-A, section 4-A, whoever refuses or fails to leave any such place when requested to do so by the owner, manager, clerk, agent or employee of the owner or manager is guilty of a Class D crime and shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or both.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §34 and Pt (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A34,C8,C10 (AMD).

§3835. Removal of hotel property

Notwithstanding Title 17-A, section 4-A, any person who removes or attempts to remove from any hotel, inn, boardinghouse, lodging house, campground or restaurant any article of property belonging to or in use in that establishment is guilty of a Class D crime and shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or both. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3836. Damage to hotel property

Notwithstanding Title 17-A, section 4-A, any guest, boarder, occupant or other person in a hotel, inn, boardinghouse, lodging house, campground or restaurant who intentionally destroys or damages any property belonging to or in use in that establishment is guilty of a Class D crime and shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or both. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3837. Ejection of disruptive or destructive persons; damage to property

The owner or manager of an inn, hotel, restaurant, lodging house, camping area or boardinghouse may request that any person on the premises of that establishment who is causing unnecessary disturbance to other persons on the premises or who is damaging or destroying property belonging to or in use by the inn, hotel, restaurant, lodging house, camping area or boardinghouse leave the premises immediately. If any person who is requested to leave the premises under this section fails or refuses to

do so, the owner or manager may use a reasonable degree of force against that person to remove that person from the premises. If any person who is requested to leave the premises under this section fails or refuses to do so, the owner or manager may request a law enforcement officer to remove that person from the premises. [PL 2013, c. 209, §3 (AMD).]

Any person who is requested to leave the premises of an inn, hotel, restaurant, lodging house, camping area or boardinghouse or is ejected from the premises under this section, in addition to any other liability or penalty, is liable for the value of any property belonging to or in use by the inn, hotel, restaurant, lodging house, camping area or boardinghouse which is damaged or destroyed as a result of conduct while on the premises or which is damaged or destroyed during ejection from the premises under this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2013, c. 209, §3 (AMD).

§3838. Refusal or denial of accommodations; ejection

An innkeeper or campground owner may refuse or deny any accommodations, facilities or privileges of a hotel, lodging house or campground to or may eject from the hotel, lodging house or campground premises or may request a law enforcement officer to remove from the premises: [PL 2013, c. 209, §4 (AMD).]

1. Person unwilling or unable to pay. Any person who is unwilling or unable to pay for accommodations and services of the hotel, lodging house or campground. The innkeeper or campground owner may require the prospective guest to demonstrate the ability to pay by cash, valid credit card or a validated check;
[PL 1997, c. 59, §1 (AMD).]

2. Minor. Any person who has not attained 18 years of age. An innkeeper or campground owner may, at the innkeeper's or campground owner's discretion, grant the accommodations, facilities and privileges of a hotel, lodging house or campground to a minor if that minor:

A. Presents a signed notification from a parent that the parent accepts liability for the guest room or campground site costs, taxes, all charges by the minor and any damages to the guest room or its furnishings or to the campground site caused by the minor while a guest at the hotel, lodging house or campground; and [PL 2005, c. 185, §4 (AMD).]

B. Provides the innkeeper or campground owner with a valid credit card number or cash deposit to cover the guest room or campground site costs, taxes, charges by the minor and any damages to the guest room or its furnishings or to the campground site caused by the minor. Any cash deposit provided must be refunded to the extent not used to cover any charges or damages as determined by the innkeeper or campground owner following room or campground site inspection at check-out; [PL 1997, c. 59, §1 (AMD).]
[PL 2005, c. 185, §4 (AMD).]

3. Property dangerous to others. Any person the innkeeper or campground owner reasonably believes is bringing in property that may be dangerous to other persons, such as firearms or explosives;
[PL 1997, c. 59, §1 (AMD).]

4. Limit on occupants exceeded. Any person or persons, if admitting that person or those persons would cause the limit on the number of persons who may occupy any particular guest room in the hotel or lodging house or a site in the campground to be exceeded. For purposes of this subsection, the limit represents the number permitted by local ordinances or reasonable standards of the hotel, lodging house or campground relating to health, safety or sanitation; or

[PL 1997, c. 59, §1 (AMD).]

5. Violates laws or rules; endangers others. Any person who:

A. Disturbs, threatens or endangers other guests; [PL 1995, c. 88, §3 (NEW).]

B. Is a minor and possesses or uses alcohol; [PL 1995, c. 88, §3 (NEW).]

C. Possesses or uses illegal drugs; or [PL 1995, c. 88, §3 (NEW).]

D. Violates any rule of the hotel, lodging house or campground that is posted in a conspicuous place and manner at the guest registration desk and in each guest room. [PL 1997, c. 59, §1 (AMD).]

Nothing in this section authorizes an innkeeper or campground owner to violate the Maine Human Rights Act, Title 5, chapter 337.
[PL 1997, c. 59, §1 (AMD).]

SECTION HISTORY

PL 1995, c. 88, §3 (NEW). PL 1997, c. 59, §1 (AMD). PL 2005, c. 185, §4 (AMD). PL 2013, c. 209, §4 (AMD).

ARTICLE 5

SAFEKEEPING AND LIABILITY

§3851. Liability for loss where safe provided

Except as provided in subsection 2, no keeper of any inn, hotel or boardinghouse is liable for the loss of or injury to any articles or property of the kind specified in subsection 1 if the following conditions are met. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Conditions. The keeper of the inn, hotel or boardinghouse must:

A. Have constantly in his inn, hotel or boardinghouse a metal safe or suitable vault in good condition and fit for the custody of:

(1) Money;

(2) Bank notes;

(3) Jewelry;

(4) Articles of gold or silver manufacture;

(5) Precious stones;

(6) Personal ornaments;

(7) Travel tickets;

(8) Negotiable or valuable papers; and

(9) Bullion; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Keep suitable locks or bolts on the doors of, and suitable fastenings on the transoms and windows of, the sleeping rooms used by guests; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Keep a copy of this section printed in distinct type constantly and conspicuously posted in a conspicuous place at or near the guest registration desk and in each guest room. [PL 1995, c. 88, §4 (AMD).]

[PL 1995, c. 88, §4 (AMD).]

2. Exceptions. The immunity from liability under subsection 1 does not apply in the following situations.

A. The keeper of the inn, hotel or boardinghouse may be held liable when the guest has offered to deliver articles or property of the kind specified in subsection 1 to the keeper of the inn, hotel or boardinghouse for custody in the safe or vault and the keeper has omitted or refused to take the property and deposit it in the safe or vault for custody and to give the guest a receipt for the goods.

(1) The keeper of any inn, hotel or boardinghouse is not required to receive from any one guest for deposit in the safe or vault any property of the kind specified in subsection 1 which exceeds a total value of $300. The keeper is not liable for any excess of such property, whether received or not. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Every keeper of an inn, hotel or boardinghouse is liable for any guest's loss of the articles or property listed in subsection 1 after those articles have been accepted for deposit, if the loss is caused by the theft or negligence of the keeper or any of the keeper's employees. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §35 and Pt (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §35 and Pt (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A35,C8,C10 (AMD). PL 1995, c. 88, §4 (AMD).

§3852. Special arrangements to receive deposits

Any keeper of an inn, hotel or boardinghouse may, by special arrangement with a guest, receive for deposit in the safe or vault any property upon any terms that they agree to in writing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3853. Check or receipt for property delivered for safekeeping

Every guest and every person intending to be a guest of any hotel, inn or boardinghouse in this State, upon delivering any baggage or other articles of property of the guest to the proprietor of the hotel, inn or boardinghouse or to the proprietor's employees for safekeeping elsewhere than in the room assigned to that guest, shall demand, and the hotel or inn proprietor shall give, a check or receipt for the baggage or other property to evidence the fact of the delivery. No proprietor is liable for the loss of or injury to the baggage or other property of the guest, unless the guest has actually delivered the baggage or other property to the proprietor or employees for safekeeping, or unless the loss or injury occurs through the negligence of the proprietor or employees in the hotel or inn. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §36 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A36,C8,C10 (AMD).

§3854. Nature of liability; limit

The liability of the keeper of any inn, hotel or boardinghouse for loss of or injury to personal property placed by guests under the keeper's care, other than that described in sections 3851 to 3853, shall be that of a depository for hire, except that if the loss or injury is caused by fire not intentionally produced by the keeper or employees, the keeper is not liable. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §37 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Limit on liability. In no case may liability exceed the sum of $150 for each trunk and its contents; $50 for each piece of luggage and its contents; $10 for each box, bundle or package and its contents, so placed under the keeper's care; and for all other miscellaneous effects, including wearing apparel and personal belongings, $50, unless the keeper of the inn, hotel or boardinghouse has consented in writing with the guest to assume a greater liability.
[PL 1987, c. 737, Pt. A, §2 (AMD); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Property held for person not a guest. Whenever any person allows baggage or property to remain in any inn, hotel or boardinghouse after leaving the same as a guest and after the relation of keeper and guest between the guest and the proprietor of the inn, hotel or boardinghouse has ceased, or forwards baggage or property to an inn, hotel or boardinghouse before becoming a guest of that establishment, and the baggage or property is received into the inn, hotel or boardinghouse, the keeper has the option of holding that baggage or property at the owner's risk.
[PL 1987, c. 737, Pt. A, §2 (AMD); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A37,C8,C10 (AMD).

ARTICLE 6

LIENS

§3861. Lien on baggage or other property

The keeper of any inn, hotel or boardinghouse has a lien on the baggage and other property in and about the inn, hotel or boardinghouse belonging to or under the control of guests or boarders, for the proper charges due from those guests or boarders for the accommodation, board and lodging, all money paid for or advanced to them and any other extras that are furnished on request. The innkeeper, hotelkeeper or boardinghouse keeper may detain this baggage and other property until those charges are paid. The baggage and other property is exempt from attachment or execution until the keeper's lien and the cost of satisfying it are satisfied. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3862. Enforcement of lien; notice of sale; proceeds

1. Sale at auction. The innkeeper, hotelkeeper or boardinghouse keeper shall retain any baggage and other property upon which there has been a lien for 90 days. At the end of the 90-day period, if the lien is not satisfied, the baggage and other property may be sold at public auction.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Notice required. The innkeeper, hotelkeeper or boardinghouse keeper must:

A. Give 10 days' notice of the time and place of sale in a newspaper having general circulation in the county where the inn, hotel or boardinghouse is located; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Mail a copy of the notice addressed to the guest or boarder at the place of residence entered in the register of the inn, hotel or boardinghouse. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §38 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §38 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Proceeds. After using the proceeds from the sale to satisfy the lien and any costs that may accrue, the keeper shall dispose of any remainder according to Title 33, chapter 45.
[PL 2019, c. 498, §20 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A38,C8,C10 (AMD). PL 2003, c. 20, §T17 (AMD). PL 2019, c. 498, §20 (AMD).

ARTICLE 7

VIOLATIONS AND PENALTIES

§3871. Prosecutions

The licensing board shall prosecute for any violation of sections 3811 to 3813 and 3831 to 3834 that comes to its knowledge, by complaint, indictment or civil action. All penalties recovered shall be paid to the municipality where the offense is committed. Any citizen of the State may prosecute for any violation of sections 3811 to 3813 and 3831 to 3834 in the same manner as the licensing board may prosecute. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3872. Record of convictions to licensing authority

The clerk of a court in which any person is convicted of a violation of this subchapter shall immediately send a copy of the record of the conviction to the licensing authority in the municipality where the offense occurred. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 4

JUNK DEALERS

§3901. Records; definitions

Every dealer in junk shall keep a record of the name of every person selling junk to that dealer and the registration number of the motor vehicle used by that seller to deliver the junk. These records shall be open for the inspection of any officer of the law. Whoever fails to make a record as provided by this section commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

As used in this section, the word "junk" means old iron, chains, brass, copper, tin, lead or other base metals, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds when less than one gross, and all articles discarded or no longer used as a manufactured article composed of any one or more of the materials mentioned. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 5

LUNCH WAGONS

§3931. License; revocation; objections

1. Issuance of licenses. The municipal officers of any municipality may license any reputable person to maintain a vehicle for the sale of food in such part of any public way and during such hours as the licensing authority designates.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Conditions. No other license may be required to operate a lunch wagon. The municipal officers may set a license fee which must be paid annually before the license is issued. A license may not be issued if the lunch wagon will inconvenience public travel.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Revocation. For reasonable cause, the licensing authority may revoke any license issued under this section as provided in section 3814.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 6

PAWNBROKERS

§3960. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 59, §1 (NEW).]

1. Pawn transaction. "Pawn transaction" means the lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.
[PL 1997, c. 155, Pt. E, §1 (AMD).]

2. Pawnbroker. "Pawnbroker" means a person who engages in pawn transactions.
[PL 1993, c. 59, §1 (NEW).]

3. Tangible personal property. "Tangible personal property" includes motor vehicles, but does not include documents evidencing title to motor vehicles. The term also does not include checks, drafts or similar instruments or real estate.
[PL 1997, c. 155, Pt. E, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 59, §1 (NEW). PL 1997, c. 155, §§E1,2 (AMD).

§3961. License

The municipal officers of any municipality may grant licenses to persons of good moral character to be pawnbrokers in the municipality for one year, unless sooner revoked by the municipal officers for violation of law. Whoever carries on such a business without a license commits a civil violation for which a forfeiture of not more than $100 may be adjudged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§3962. Account of business done and disclosure to consumer

1. Account kept. Every pawnbroker shall maintain records in which the pawnbroker shall enter:

A. The date, duration, amount, periodic rate of interest and annual percentage rate of every loan that is made; [PL 1993, c. 59, §2 (AMD).]

A-1. The finance charge, due dates for payment and the total payment needed to redeem or repurchase the pawned property; [PL 1993, c. 59, §2 (NEW).]

B. An accurate account and description of the property pawned; [PL 1993, c. 59, §2 (AMD).]

B-1. The terms of redemption or repurchase, including any reduction in the finance charge for early redemption or repurchase and the right of the consumer to at least one extension of one month at the same rate of interest upon request in writing or in person; and [PL 1995, c. 397, §14 (AMD).]

C. The name and residence of the consumer. [PL 1993, c. 59, §2 (AMD).]

The pawnbroker shall allow the municipal officers to inspect these records at all reasonable times.
[PL 1995, c. 397, §14 (AMD).]

2. Delivery to consumer. At the time of the pawn transaction, the pawnbroker shall deliver to the consumer a signed, written disclosure complying with the truth-in-lending provisions of the Maine Consumer Credit Code, Title 9-A, Article 8-A, containing the items required by subsection 1 and the name and address of the pawnbroker.
[PL 2011, c. 427, Pt. D, §18 (AMD).]

3. List filed with law enforcement agency and regional tracking system. Within 10 days of a transaction, a pawnbroker shall submit to a regional property and recovery tracking system administered by a regional law enforcement support organization designated by the Department of Public Safety, Bureau of State Police, in a form acceptable to the recipient, a report of the transaction, including:

A. The name and address of the pawnbroker; [PL 2019, c. 296, §1 (NEW); PL 2019, c. 296, §2 (AFF).]

B. The date and time of the transaction; [PL 2019, c. 296, §1 (NEW); PL 2019, c. 296, §2 (AFF).]

C. The name, address, date of birth, telephone number, if any, and unique identifying number on the written proof of identification required under section 3971 of the consumer or seller; and [PL 2019, c. 296, §1 (NEW); PL 2019, c. 296, §2 (AFF).]

D. Information on every item involved in the transaction, including a description of the item, manufacturer, if known, serial number, if any, and amount of the loan or purchase price given for the item. [PL 2019, c. 296, §1 (NEW); PL 2019, c. 296, §2 (AFF).]

[PL 2019, c. 296, §1 (AMD); PL 2019, c. 296, §2 (AFF).]

4. Violation. A violation of this section constitutes a violation of Title 9-A, section 5-201, subsection 1, subject to the civil remedies of the Maine Consumer Credit Code, and constitutes a violation of the Maine Unfair Trade Practices Act.

[PL 1993, c. 59, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 59, §2 (AMD). PL 1995, c. 397, §14 (AMD). PL 2011, c. 427, Pt. D, §18 (AMD). PL 2019, c. 296, §1 (AMD). PL 2019, c. 296, §2 (AFF).

§3963. Pawn transaction terms

1. Maximum finance charge established. A pawnbroker may not directly or indirectly receive a finance charge of greater than 25% per month on that part of a loan that is $500 or less, nor more than 20% per month on that part of a loan that is more than $500, made upon property pawned. Accrued interest may not be incorporated as interest-bearing principal.

[PL 1993, c. 59, §3 (NEW).]

2. Minimum finance charge authorized. Notwithstanding subsection 1, a pawnbroker may contract for and receive a minimum charge of not more than $2.50.

[PL 1993, c. 59, §3 (NEW).]

3. Other charges prohibited. A pawnbroker may not charge a fee in addition to a finance charge allowed under subsections 1 and 2.

[PL 1993, c. 59, §3 (NEW).]

4. Time period. The initial redemption or repurchase period of a pawn transaction, not including an extension under subsection 5, may not exceed 60 days.

[PL 1993, c. 59, §3 (NEW).]

5. Extension required upon request. A consumer is entitled to at least one extension of the pawn transaction of one month at the same rate of interest upon request in writing or in person.

[PL 1995, c. 397, §15 (AMD).]

6. Violation. A violation of this section constitutes a violation of Title 9-A, section 5-201, subject to the civil remedies of the Maine Consumer Credit Code, and constitutes a violation of the Maine Unfair Trade Practices Act.

[PL 1993, c. 59, §3 (NEW).]

Nothing in this section prohibits a pawnbroker from charging a consumer a lower rate of interest than established by this section. [PL 1993, c. 59, §3 (RPR).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 59, §3 (RPR). PL 1995, c. 397, §15 (AMD).

§3964. Time and manner of selling pawned property; notice

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 59, §4 (RP).

§3964-A. Regulation of pawnbrokers

1. Exemption from state license. A pawnbroker licensed by a municipality pursuant to section 3961 is not required to obtain a supervised lender's license pursuant to Title 9-A, section 2-301 in order to engage in pawn transactions.
[PL 1993, c. 59, §5 (NEW).]

2. Application of law. Pawnbrokers are subject to Title 9-A, sections 6-104, 6-106, 6-202 and 6-203.
[PL 1993, c. 59, §5 (NEW).]

3. Model forms. The Director of Consumer Credit Regulation may issue model disclosure forms and clauses to facilitate compliance with the disclosure and computational requirements of this subchapter, pursuant to the truth-in-lending provisions of the Maine Consumer Credit Code, Title 9-A, Article 8-A.
[PL 2011, c. 427, Pt. D, §19 (AMD).]

4. Privacy of consumer financial information. A pawnbroker shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the pawnbroker is a financial institution as defined in those regulations. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24.
[PL 2001, c. 262, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 59, §5 (NEW). PL 1995, c. 309, §27 (AMD). PL 1995, c. 309, §29 (AFF). PL 2001, c. 262, §E1 (AMD). PL 2011, c. 427, Pt. D, §19 (AMD).

§3965. Disposal of proceeds of sale

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 59, §6 (RP).

SUBCHAPTER 7

DEALERS IN USED PERSONAL PROPERTY

§3971. Records of sales of used merchandise

1. Records required. Every dealer in used personal property shall record the following information before completing the purchase of any used personal property:

A. The date of the purchase; [PL 2003, c. 582, §2 (NEW).]

B. The seller's name and address; and [PL 2003, c. 582, §2 (NEW).]

C. A brief description of the property, including any identification numbers. [PL 2003, c. 582, §2 (NEW).]

Before recording the information required by this subsection, a dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item.
[PL 2003, c. 582, §2 (NEW).]

2. Form of records. The records required under subsection 1 must be kept for the purpose of complying with this section, maintained in order by date of purchase and contained either in a bound volume or ledger or in a binder in which pages can be affixed.
[PL 2003, c. 582, §2 (NEW).]

3. Availability for inspection. Upon request by any law enforcement officer or prosecuting attorney, a dealer in used personal property shall promptly make available for inspection at the dealer's principal place of business the records required under subsection 1.
[PL 2003, c. 582, §2 (NEW).]

4. Violations. A dealer in used personal property who violates any of the requirements of this section or a seller who provides false identification to a dealer is guilty of a Class E crime.
[PL 2003, c. 582, §2 (NEW).]

5. Exemption. An auctioneer licensed under Title 32, chapter 5-B is exempt from the requirements of this section.
[PL 2019, c. 279, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 582, §2 (NEW). PL 2019, c. 279, §1 (AMD).

§3972. Dealers in secondhand precious metals

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

A. "Dealer" means a person who engages in the business of purchasing, selling or acquiring through exchange secondhand precious metals. [PL 2013, c. 398, §1 (NEW).]

B. "Precious metals" means any item composed in whole or in part of gold, palladium, platinum or silver, but does not include dental gold, unrefined metal ore, an electronic product, any part of a mechanical system on a motor vehicle or gold or silver coins or bullion. [PL 2017, c. 126, §1 (AMD).]

C. "Seller" means a person who sells or provides through an exchange secondhand precious metals to a dealer. [PL 2013, c. 398, §1 (NEW).]

[PL 2017, c. 126, §1 (AMD).]

2. Records required. A dealer shall maintain the following records with respect to each transaction conducted by the dealer involving secondhand precious metals:

A. The date, time and place of the transaction; [PL 2013, c. 398, §1 (NEW).]

B. The name and address of the seller or other person from whom the dealer acquired the precious metals; [PL 2013, c. 398, §1 (NEW).]

C. A digital photograph of each item of precious metals that is the subject of the transaction. A dealer may satisfy the requirements of this paragraph by taking digital photographs of groups of 5 or fewer substantially similar items, as long as the quality of each digital photograph is sufficient to allow the item to be identified by the owner; and [PL 2017, c. 126, §2 (AMD).]

D. [PL 2017, c. 126, §3 (RP).]

E. A signed statement of ownership from the seller of the secondhand precious metals stating that the seller is the owner or is otherwise authorized to sell the precious metals made on a form provided by the dealer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453. [PL 2013, c. 398, §1 (NEW).]

Before recording the information required by this subsection, a dealer shall require reasonable proof of the seller's identity in the form of a government-issued identification card such as a motor vehicle operator's license or military identification card.

[PL 2017, c. 126, §§2, 3 (AMD).]

3. Retention and maintenance of records. The records required under subsection 2 must be kept for a period of one year and maintained in order by date of purchase.

[PL 2013, c. 398, §1 (NEW).]

4. Availability for inspection. Upon request by a law enforcement officer or prosecuting attorney, a dealer in secondhand precious metals shall promptly make available for inspection at the dealer's principal place of business the records required under subsection 2.

[PL 2013, c. 398, §1 (NEW).]

5. Holding period. A dealer may not sell or alter any precious metals until the precious metals have remained in the dealer's possession for 15 days after the date of acquisition by the dealer, except that a dealer who determines that the precious metals are not listed in an electronic database designed to catalog stolen property may sell or alter the precious metals 5 business days after the date of acquisition.

[PL 2013, c. 398, §1 (NEW).]

6. Municipal registration or permit. A person may not act as a dealer without registering as a dealer in secondhand precious metals with or, if required by the municipality, obtaining a permit issued by the municipal officers of the municipality in which the person intends to maintain a permanent place or places of business. A dealer shall provide the address of the permanent place of business at which the dealer will do business to the municipality and shall notify the municipality if the location changes.

[PL 2017, c. 126, §4 (AMD).]

7. Exemption. This section does not apply to an auctioneer licensed under Title 32, chapter 5-B.

[PL 2013, c. 398, §1 (NEW).]

8. Violations. A dealer who violates any of the requirements of this section is guilty of a Class E crime except as specified in subsection 2, paragraph E. A court may award restitution pursuant to Title 17-A, section 2005 to any victim, including a dealer, who suffers an economic loss as the result of a violation of this section.

[PL 2019, c. 113, Pt. C, §84 (AMD).]

SECTION HISTORY

PL 2013, c. 398, §1 (NEW). PL 2017, c. 126, §§1-4 (AMD). PL 2019, c. 113, Pt. C, §84 (AMD).

SUBCHAPTER 8

RECREATIONAL BUSINESS ACTIVITIES

§3981. Licensing recreational business activities

Pursuant to its home rule authority and for the purpose of protecting the safety, health and welfare of the general public, a municipality may establish by ordinance licensing procedures, standards and appropriate fees to cover the costs of administration, regulation and enforcement of recreational business activities including without limitation the activities of bowling alleys, shooting galleries, pool, bagatelle and billiard rooms, pinball machine arcades, public exhibitions and roller-skating and ice-skating rinks. [PL 2013, c. 595, Pt. U, §10 (NEW).]

SECTION HISTORY

PL 2013, c. 595, Pt. U, §10 (NEW).

CHAPTER 185

REGULATION OF CONSTRUCTION AND IMPROVEMENTS

SUBCHAPTER 1

REGULATION OF BUILDINGS

§4101. Permits for buildings

This subchapter applies to any municipal ordinance requiring a permit in connection with: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Construction, demolition and alteration. The construction, demolition, improvement or alteration of any building;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Building maintenance and facilities. The maintenance, repair, use, change of use, safety features, light, ventilation and sanitation facilities of any building;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Sanitation and parking facilities for mobile homes and travel trailers. The sanitation and parking facilities for mobile homes, travel trailers intended to be used for human habitation and travel trailer parking facilities;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Building equipment. The installation, alteration, maintenance, repair and use of all equipment in or connected to all buildings; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Buildings used for public assembly. The operation of a building which is used occasionally or regularly for public assembly.

A. As used in this subsection, "building used for public assembly" means a room or space in or on any structure which is used for the gathering of 100 or more persons for any purpose, and includes any connecting room or space on the same level, above or below, which has a common entrance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

This subchapter does not apply to a zoning ordinance as defined in section 4301, subsection 15-A or to a shoreland zoning ordinance adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B. [PL 1995, c. 89, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 89, §1 (AMD).

§4102. Nuisance

Any building, structure, travel trailer parking facility or equipment existing in violation of an ordinance subject to this subchapter is a nuisance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4103. Permits

The provisions of this section apply to any ordinance described in section 4101. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Applicability. The provisions of the ordinance which pertain to buildings apply equally to all structures, including wharves, piers and pilings and parts of them.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Licensing authority. The building official is the licensing authority unless otherwise provided by the municipality.
[RR 2007, c. 2, §13 (COR).]

3. Application; issuance of permit. An application for a permit must be in writing and shall be signed by the applicant and directed to the licensing authority. The failure of the licensing authority to issue a written notice of its decision, directed to the applicant, within 30 days from the date when the application is filed, constitutes a refusal of the permit.

A. The licensing authority may not issue any permit for a building or use for which the applicant is required to obtain a license under Title 38, section 413, until the applicant has obtained that license. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §39 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The licensing authority may not issue any permit for a building or use within a subdivision, as defined in section 4401, subsection 4, unless that subdivision has been approved in accordance with chapter 187, subchapter IV. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §39 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The licensing authority may not issue a permit for installation of a mobile home previously installed in another municipality until the mobile home owner provides proof of payment of all property taxes on that mobile home in the municipality where the home was formerly located. [PL 1993, c. 143, §1 (NEW).]

D. The licensing authority may not issue a permit for a building or use for which the applicant is required to obtain a driveway or entrance or traffic movement permit under Title 23, section 704 or 704-A until the applicant has obtained that permit from the Department of Transportation. [PL 2003, c. 363, §6 (NEW).]

[PL 2003, c. 363, §6 (AMD).]

4. Powers and duties of enforcement officers. Ordinances defining the duties of the building official and other enforcement officers, not contrary to Title 25, chapter 313, may be enacted under a municipality's home rule authority. All enforcement officers designated by ordinance must be given free access at reasonable hours to all parts of buildings regulated by ordinance.

[RR 2007, c. 2, §14 (COR).]

5. Appeal to municipal officers or board of appeals. An appeal may be taken from any order issued by the building official, or from the licensing authority's refusal to grant a permit, to the municipal officers or to a board of appeals established under section 2691. If a municipality has by ordinance required that all such appeals be taken to a board of appeals, the procedure must be the same as in appeals directed to the municipal officers, unless the municipality has provided otherwise.

A. On an appeal in writing to the municipal officers, they shall at their next meeting affirm, modify or set aside the decision of the building official or licensing authority according to the terms of the pertinent ordinance.

(1) The municipal officers may permit a variance from the terms of an ordinance when necessary to avoid undue hardship, provided there is no substantial departure from the intent of the ordinance.

(2) The municipal officers may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the municipality. [RR 2007, c. 2, §15 (COR).]

B. The failure of the municipal officers to issue a written notice of their decision, directed to the appellant, within 30 days after the appeal is filed, constitutes a denial of the appeal. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[RR 2007, c. 2, §15 (COR).]

6. Appeal to Superior Court. An appeal may be taken from the decision of the municipal officers or the board of appeals as provided in section 2691, subsection 3, paragraph G.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §40 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A39,A40,C8 C10 (AMD). PL 1993, c. 143, §1 (AMD). PL 2003, c. 363, §6 (AMD). RR 2007, c. 2, §§13-15 (COR).

§4104. Public building violation; liability

1. Written order sent. The building official shall send a written order to the owner or lessee of a building used for public assembly requiring any conditions which exist in violation of an ordinance to be corrected within 30 days after the order is sent.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2007, c. 699, §24 (REV).]

2. Liability. After the expiration of the 30-day period, the owner or lessee is absolutely liable for all injury caused by failure to correct any conditions cited in the order under subsection 1, and the building official shall order the building vacated.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §41 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2007, c. 699, §24 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A41,C8,C10 (AMD). PL 2007, c. 699, §24 (REV).

SUBCHAPTER 2

REGULATION AND INSPECTION OF ELECTRICAL INSTALLATIONS

ARTICLE 1

GENERAL PROVISIONS

§4151. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Electrical equipment. "Electrical equipment" means all electrical conductors, fittings, devices and fixtures.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Reasonably safe to persons and property. "Reasonably safe to persons and property," as applied to electrical installations and electrical equipment, means reasonably safe to use in the service for which the installation or equipment is intended without unnecessary hazard to life, limb or property.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4152. Applicability of provisions

This subchapter applies to all installations of electrical equipment, made after August 6, 1949, within or on public and private buildings and premises, including mobile homes, with the following general exceptions which apply to all of this subchapter: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Under jurisdiction of certain commissions. Any person under the jurisdiction of the Public Utilities Commission of the State or of the Federal Communications Commission;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Public utilities. The electrical work and equipment employed in connection with the construction, installation, operation, repair or maintenance of any utility facility by a public utility, as defined in Title 35-A, section 102, or by a sewer district or sanitary district in providing its authorized service, or in any way incidental to providing that service;
[PL 1999, c. 657, §12 (AMD).]

3. Industrial or manufacturing plants. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in or about industrial or manufacturing plants;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Other property of industrial or manufacturing plants. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in, on or about other properties, equipment or buildings, residential or of any other kind, owned or controlled by the operators of industrial or manufacturing plants, if the work is done under the supervision of an electrical engineer employed by the operator;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Mines, transportation and sound equipment. The electrical work and equipment in mines, pipe line systems, ships, railway rolling stock or automotive equipment, or the operation of portable sound equipment;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Electrical equipment in manufacturer's plant. Any electrical installations or equipment involved in the manufacture, test or repair of electrical equipment in the manufacturer's plant; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Certain laboratories. Installations in suitable laboratories of exposed electrical wiring for experimental purposes only.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 657, §12 (AMD).

§4153. Effect on bylaws or ordinances

Any bylaw or ordinance in effect in any municipality on August 6, 1949 is not affected in any way by this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4154. Penalties

Any person who violates this subchapter commits a civil violation for which a forfeiture of not less than $25 nor more than $1,000 for each offense may be adjudged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 2

STANDARDS

§4161. Standards; installation

All installations of electrical equipment must be reasonably safe to persons and property and must comply with the applicable laws of the State and all applicable ordinances, orders and regulations of any municipality, not in conflict with this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Conformity of installations of electrical equipment with applicable regulations set forth in the National Electrical Code, National Electrical Safety Code or electrical provisions of other safety codes which have been approved by the American Standards Association is prima facie evidence that the installations are reasonably safe to persons and property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Tests of special wiring. The Commissioner of Public Safety may authorize installations of special wiring to obtain field experience under controlled conditions in territory where electrical inspection is provided.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4162. Standards; equipment

All electrical equipment installed or used must be reasonably safe to persons and property and must comply with the applicable laws of the State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Conformity of electrical equipment with applicable standards of Underwriters' Laboratories, Inc. is prima facie evidence that the equipment is reasonably safe to persons and property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Tests of special wiring. The Commissioner of Public Safety may authorize installations of special wiring to obtain field experience under controlled conditions in territory where electrical inspection is provided.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4163. Standards of equipment in mobile homes

No person engaged in the business of selling mobile homes may sell any mobile home which contains electrical equipment that does not conform to the standards of the National Electrical Code and of the Underwriters' Laboratories, Inc. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

ARTICLE 3

INSPECTIONS AND PERMITS

§4171. Local inspectors

A municipality may provide by resolution or ordinance under its home rule authority for the inspection of electrical installations within the municipality and may appoint an electrical inspector who shall enforce this subchapter and any applicable resolution or ordinance within the inspector's jurisdiction. Any municipality may join with one or more other municipalities in paying for the services of an electrical inspector, provided the municipalities have authorized the appointment of the inspector. Any ordinance or resolution must state whether the electrical inspection in the municipality applies to all or any of the following: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Original installations. Original installations of electrical equipment;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Alterations or additions. Alteration or addition to existing electrical equipment; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Area of municipality. All the territory of the municipality, or only the section or sections of the municipality that are described in the ordinance or resolution.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4172. Inspections

The electrical inspectors shall examine and issue certificates of acceptance of electrical installations at the request or complaint of any owner, lessee, tenant or municipal officer. An electrical inspector may enter any building with the permission of any person having control of that building or may apply to a court for process to do so. If an electrical inspector finds any hazardous electrical installation, the inspector shall order the person having charge of that installation to have it corrected immediately. If

that person refuses or neglects to do so, the inspector may apply to an appropriate court for injunctive relief. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4173. Permits

A municipality which has provided for electrical inspections under this subchapter may require that no electrical equipment may be installed within or on any publicly or privately owned building, structure or premises, nor may any alteration or addition be made in any such existing equipment without first obtaining a permit for that installation or alteration from the electrical inspector. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Minor repair work excluded. This section does not apply to minor repair work, including, but not limited to:

A. The replacement of fuses; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The installation of additional outlets; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The replacement of existing switches, sockets and lamps; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Repairs to entrance service equipment; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Repairs or installation of radio and low voltage equipment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Application for permit. The person performing the work must apply to the electrical inspector in writing for a permit. A general description of the electrical work to be done must be included with the application. If required by the electrical inspector, the applicant must file any plans, specifications and schedules that are necessary to determine whether the installation, as described, will comply with this subchapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Issuance of permit. The electrical inspector shall issue the permit if the applicant has:

A. Complied with this subchapter; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Paid any fee established by a municipality for electrical inspections under this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Deviation from installation described in permit. No major deviation may be made from the installation described in the permit without the written approval of the electrical inspector.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Where permit is not required. The installation or alteration of electrical equipment in municipalities that do not require a permit and in the unorganized territories is governed by Title 32, section 1102-C.

[PL 2017, c. 198, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 198, §1 (AMD).

§4174. Inspection and certificates of approval

When the installation of any electrical equipment under a permit is completed, the person making the installation shall notify the electrical inspector having jurisdiction. The electrical inspector shall inspect the work within a reasonable time. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Approval of installation. If, upon inspection, the inspector finds that the installation complies with this subchapter, and all applicable local ordinances and regulations, the inspector shall issue a certificate of approval to the person making the installation.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Notice of defects. If, upon inspection, the inspector finds that the installation does not comply with this subchapter, and all applicable local ordinances and regulations, the inspector shall immediately send a written notice to the person making the installation stating the defects which were found to exist.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 3

REGULATION AND INSPECTION OF PLUMBING

ARTICLE 1

GENERAL PROVISIONS

§4201. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Commissioner. "Commissioner" means the Commissioner of Health and Human Services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Department. "Department" means the Department of Health and Human Services. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Plumbing. "Plumbing" means the installation, alteration or replacement of pipes, fixtures and other apparatus for bringing in potable water, removing wastewater and the piping connections to heating systems using water. Except for the initial connection to a potable water supply and the final connection that discharges indirectly into a public sewer or wastewater disposal system, the following are excluded from this definition:

A. All piping, equipment or material used exclusively for manufacturing or industrial processes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The installation or alteration of automatic sprinkler systems used for fire protection and standpipes connected to automatic sprinkler systems or overhead; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Building drains outside the foundation wall or structure; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The replacement of fixtures with similar fixtures at the same location without any alteration of pipes; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The sealing of leaks within an existing line. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, §§8, 10 (AMD).]

[RR 2017, c. 1, §21 (COR).]

4. Seasonal dwelling. "Seasonal dwelling" means a dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981. Evidence of use as a principal or year-round residence includes, but is not limited to:

A. The listing of that dwelling as an occupant's legal residence for the purpose of:

(1) Voting;

(2) Filing a state tax return; or

(3) Automobile registration; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The occupancy of that dwelling for a period exceeding 7 months in any calendar year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Subsurface wastewater disposal system. "Subsurface wastewater disposal system" means:

A. Any system for the disposal of waste or wastewater on or beneath the surface of the earth including, but not limited to:

(1) Septic tanks;

(2) Drainage fields;

(3) Grandfathered cesspools;

(4) Holding tanks; or

(5) Any other fixture, mechanism or apparatus used for those purposes; but [RR 2017, c. 1, §21 (COR).]

B. Does not include:

(1) Any discharge system licensed under Title 38, section 414;

(2) Any surface wastewater disposal system; or

(3) Any municipal or quasi-municipal sewer or wastewater treatment system. [RR 2017, c. 1, §21 (COR).]

[RR 2017, c. 1, §21 (COR).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 689, §§B6,7 (REV). RR 2017, c. 1, §21 (COR).

ARTICLE 2

REGULATIONS AND PERMITS

§4211. Plumbing regulations

1. Municipal ordinances. Municipalities may enact ordinances under their home rule authority that are more restrictive than rules governing plumbing or subsurface wastewater disposal systems adopted by the Department of Professional and Financial Regulation and the Department of Health and Human Services, respectively. Either department may provide technical assistance to municipalities in the development of ordinances under this subchapter, pertaining to their respective rules. The municipality shall enforce any such ordinance.

[PL 1999, c. 228, §1 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

2. State rules. A municipal ordinance may not be less restrictive than the rules of the department relating to subsurface wastewater disposal systems as adopted under Title 22, section 42. The rules of the department relating to all subsurface wastewater disposal systems have full force and effect, provided that, to the extent that a municipality has enacted more restrictive ordinances, the provisions of those ordinances prevail.

[PL 1999, c. 228, §2 (AMD).]

3. Subsurface waste water disposal system. No person may erect a structure that requires a subsurface waste water disposal system until documentation has been provided to the municipal officers that the disposal system can be constructed in compliance with rules adopted under Title 22, section 42, and this section.

A. For the purposes of this section, "expansion" means the enlargement or change in use of a structure using an existing subsurface waste water disposal system that brings the total structure into a classification that requires larger subsurface waste water disposal system components under rules adopted pursuant to Title 22, section 42, and this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. No person may expand a structure using a subsurface waste water disposal system until documentation is provided to the municipal officers and a notice of the documentation is recorded in the appropriate registry of deeds that, in the event of a future malfunction of the system, the disposal system can be replaced and enlarged to comply with the rules adopted under Title 22, section 42, and any municipal ordinances governing subsurface waste water disposal systems. No requirement of these rules and ordinances may be waived for an expanded structure.

(1) The department shall prescribe the form of the notice to be recorded in the registry of deeds. The notice must include a site plan showing:

(a) The exact location of the replacement system;

(b) The approximate location of lot lines; and

(c) The exact location of existing wells serving the lot on which the replacement system will be located and those located on abutting lots.

(2) The person seeking to expand a structure shall send copies of the notice by certified mail, return receipt requested, to all owners of abutting lots and to a public drinking water supplier if the lot with the structure that is being expanded is within its source water protection area.

(3) After the notice required by this paragraph is recorded, no abutting landowner may install a well on that landowner's property in a location which would prevent the installation of the replacement septic system. The owner of the lot on which the replacement system will be installed may not erect any structure on the proposed site of the replacement system or conduct any other activity which would prevent the use of the designated site for the replacement system. [PL 1999, c. 761, §6 (AMD).]

[PL 1999, c. 761, §6 (AMD).]

4. Enforcement and penalty. Any person who violates this section must be penalized in accordance with section 4452. The municipality or the department may seek to enjoin violations of this section.

[PL 2007, c. 695, Pt. A, §35 (AMD).]

5. Permit fees. The following permit fees may be charged.

A. A plumbing permit fee not to exceed $10 per internal fixture may be charged. [PL 2009, c. 589, §9 (AMD).]

B. [PL 1999, c. 228, §3 (RP).]

C. A minimum fee, not to exceed $40, may be charged for all internal plumbing permits combined. [PL 2009, c. 589, §9 (AMD).]

D. A nonengineered subsurface wastewater disposal system fee not to exceed $250 may be charged, and a surcharge of $15 must be charged. The surcharge must be paid by the municipality to the Treasurer of State, who shall credit the amount to the Water Quality Improvement Fund established under Title 38, section 424-B. [PL 2009, c. 589, §9 (AMD).]

[PL 2009, c. 589, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 404, §§C1,2 (AMD). PL 1993, c. 611, §1 (AMD). PL 1997, c. 106, §1 (AMD). PL 1999, c. 228, §§1-3 (AMD). PL 1999, c. 761, §6 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 695, Pt. A, §35 (AMD). PL 2009, c. 213, Pt. FFFF, §1 (AMD). PL 2009, c. 589, §9 (AMD).

§4212. Department of Health and Human Services; responsibilities

1. Administration of rules. The department is responsible for ensuring the proper administration of the subsurface wastewater disposal rules and permitting processes by municipalities. The department shall assist municipalities in complying with this subchapter and with section 3428.
[PL 1999, c. 228, §4 (AMD).]

2. Review. The department shall review the administration of subsurface wastewater disposal rules and laws in each municipality for compliance with this subchapter and with section 3428. This review must be made on a regular basis and may be made in response to a written complaint from any person as necessary. The department shall inspect the municipality's records and discuss the administration of the program with the local plumbing inspector. The local plumbing inspector shall be available during the department's review and shall cooperate in providing all necessary information. The department shall report the results of its review in writing to the municipality and, when applicable, to the complainant. The written notice must set forth the department's findings of whether the municipality is in compliance with this subchapter and section 3428.
[PL 1999, c. 228, §4 (AMD).]

3. Violation; penalty. If after review the department finds any violation of this subchapter or section 3428, it shall notify the municipality that it has 30 days in which to take enforcement action and shall specify what action must be taken in order to achieve compliance. The municipality shall file a plan acceptable to the department setting forth how it will attain compliance. The department shall notify the municipality that it will review the municipality for compliance within 60 days of accepting the plan and shall conduct that review. Any municipality which fails to file an acceptable plan with the department or which remains in violation at the expiration of the 60-day period is subject to a civil penalty of at least $500. The department shall enforce this section in any court of competent jurisdiction. Every 30-day period that a municipality remains in violation after review and notification constitutes a separate offense.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 228, §4 (AMD). PL 2003, c. 689, §B6 (REV).

§4213. Right of entry on inspection

The department and any duly designated representative or employee of the department, including the local plumbing inspector, may enter any property at reasonable hours, enter any building with the consent of the property owner, occupant or agent, inspect the property or structure for compliance with the applicable rules or investigate alleged conditions which do not comply with the rules. Upon the request of the occupant of the premises, the department's representative or the local plumbing inspector shall present proper credentials before entering the premises. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

If entry is denied, entry shall not be attempted until after obtaining an order of the court. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4214. Legislative intent

It is the intent of the Legislature that local jurisdictions have primary responsibility for enforcing rules adopted by the department governing the installation and inspection of subsurface wastewater disposal systems. The adoption of rules by the department does not deny municipal authority under section 3001 to adopt more restrictive ordinances. [PL 1999, c. 228, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 228, §5 (AMD).

§4215. Permits

1. Permit required. A permit is required for the following activities and is valid for work commenced within 24 months after the permit is issued:

A. The installation of plumbing into a building; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The installation of a subsurface waste water disposal system or components; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The conversion of a seasonal dwelling as provided in subsection 2. This paragraph may not be construed to require a permit for any dwelling which:

(1) Will be occupied seasonally;

(2) Is not the principal dwelling place of the occupant; or

(3) Has the disposal system located outside the shoreland zoned area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Permit for seasonal conversion. Before converting a seasonal dwelling which is located in the shoreland zoning area, as defined in Title 38, section 435, to a year-round or principal dwelling, a conversion permit must be obtained from the local plumbing inspector. A seasonal conversion permit shall not be approved if a holding tank is used as a means of waste water disposal or storage. The inspector shall issue a permit for conversion of a seasonal dwelling to a year-round or principal dwelling if one of the following conditions is met:

A. A subsurface waste water disposal application, completed after July 1, 1974, exists indicating that the dwelling's waste water disposal system substantially complies with departmental rules and applicable municipal ordinances, provided that the disposal system was installed with the required permit and certificate of approval; [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §42 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A replacement for an existing wastewater disposal system has been constructed so that it substantially complies with departmental rules and applicable municipal ordinances; or [PL 1991, c. 838, §6 (AMD).]

C. The dwelling unit's wastewater is connected to an approved sanitary sewer system. [PL 1991, c. 838, §6 (AMD).]

D. [PL 1991, c. 838, §7 (RP).]

[PL 1991, c. 838, §§6, 7 (AMD).]

3. Penalties. Any person who installs or orders the installation of any plumbing or subsurface wastewater disposal system without the permit required by this section or who otherwise violates this section must be penalized in accordance with section 4452. The municipality or the department may seek to enjoin violations of this section.

[PL 1991, c. 824, Pt. B, §9 (AMD).]

4. Fees. The plumbing inspector shall issue any permit under this section upon receipt and approval of a completed application form as prescribed by the commissioner and payment by the applicant of the fee established by the municipality. The fee must be at least the minimum amount determined by rule of the department. One-quarter of the amount of the minimum fee must be paid through the department to the Treasurer of State to be maintained as a permanent fund and used by the department to implement its subsurface wastewater disposal rules, to administer the receipt and collation of completed permits and to issue plumbing permit labels to the municipality and by the Department of Economic and Community Development, Office of Community Development for training and certification of local plumbing inspectors. The department and the Department of Economic and Community Development, Office of Community Development shall together determine an amount to be transferred annually by the Treasurer of State for training and certification of local plumbing inspectors to the Maine Code Enforcement Training and Certification Fund established in section 4451, subsection 3-B. The remainder of the fee must be paid to the treasurer of the municipality.

[PL 2011, c. 655, Pt. FF, §5 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A42,C8,C10 (AMD). PL 1991, c. 824, §B9 (AMD). PL 1991, c. 838, §§6,7 (AMD). PL 1999, c. 228, §6 (AMD). PL 2009, c. 213, Pt. M, §4 (AMD). PL 2011, c. 655, Pt. FF, §5 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF).

§4216. Transfers of shoreland property

1. Shoreland areas. Any person transferring property on which a subsurface waste water disposal system is located within a shoreland area, as described in Title 38, section 435, shall provide the transferee with a written statement by the transferor as to whether the system has malfunctioned during the 180 days preceding the date of transfer.

[PL 2007, c. 568, §2 (NEW).]

2. Additional requirements; shoreland areas. In addition to the requirements of subsection 1, the following provisions apply to the transfer of property within a shoreland area as described in Title 38, section 435.

A. A person purchasing property on which a subsurface waste water disposal system is located within a shoreland area, as described in Title 38, section 435, shall prior to purchase have the system inspected by a person certified by the department except that if it is impossible due to weather conditions to perform an inspection of the system prior to the purchase, the inspection must be performed within 9 months after transfer of the property. If the inspection finds that the system is malfunctioning, the system must be repaired or replaced within one year after transfer of the property. For purposes of this paragraph only, indications of a malfunctioning system are limited to the indications specified in the definition of "malfunctioning system" in the department's rules regulating subsurface waste water disposal that are in effect on the effective date of this paragraph. [PL 2019, c. 43, §1 (AMD); PL 2019, c. 43, §2 (AFF).]

B. A subsurface waste water disposal system that has been installed pursuant to section 4211 and rules adopted under Title 22, section 42 within 3 years prior to the closing date of the transfer of property is not subject to the inspection requirements of paragraph A. [PL 2007, c. 568, §2 (NEW).]

C. If the seller of the shoreland property has a written inspection report for an inspection of the subsurface waste water disposal system that was performed within 3 years prior to the date of the transfer of property by a person certified by the department, then the seller shall provide the inspection results to the purchaser, and the purchaser is not required to have the system inspected pursuant to paragraph A. [PL 2007, c. 568, §2 (NEW).]

D. The inspection described in paragraph A is not required if the purchaser certifies to the local plumbing inspector that the purchaser will replace the subsurface waste water disposal system within one year of the transfer of property. [PL 2007, c. 568, §2 (NEW).]

[PL 2019, c. 43, §1 (AMD); PL 2019, c. 43, §2 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A43,C10 (RPR). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 568, §2 (RPR). PL 2019, c. 43, §1 (AMD). PL 2019, c. 43, §2 (AFF).

ARTICLE 3

LOCAL PLUMBING INSPECTORS

§4221. Plumbing inspectors

1. Appointment; compensation; removal. In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors are appointed for a term of one year or more and must be sworn and the appointment recorded as provided in section 2526, subsection 9. An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced. The municipal officers shall notify the department and the Department of Public Safety, Office of the State Fire Marshal of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors is determined by the municipal officers and paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.
[PL 2019, c. 517, §4 (AMD).]

2. Certification requirements. A person may not hold the office of plumbing inspector unless currently certified as qualified pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the District Court as provided for in section 4451.

A. [PL 1997, c. 296, §4 (RP); PL 1997, c. 683, Pt. B, §15 (RP).]
[PL 2011, c. 655, Pt. FF, §7 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF).]

3. Duties. Plumbing inspectors shall:

A. Inspect all plumbing for which permits are granted, within their respective municipalities, to ensure compliance with state rules and municipal ordinances and investigate all construction or work covered by those rules and ordinances; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Condemn and reject all work done or being done or material used or being used which does not comply with state rules and municipal ordinances, and order changes necessary to obtain compliance; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Issue a certificate of approval for any work that the inspector has approved; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Keep an accurate account of all fees collected and transfer those fees to the municipal treasurer; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Keep a complete record of all essential transactions of the office; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Perform other duties as provided by municipal ordinance; [PL 2007, c. 568, §3 (AMD).]

G. Investigate complaints of alleged violations relating to plumbing or subsurface waste water disposal and take appropriate action as specified by the department by rule in the department's enforcement manual for subsurface waste water disposal and plumbing rules; and [PL 2007, c. 568, §4 (AMD).]

H. Accompany staff of the Department of Environmental Protection or the department in the conduct of a sanitary survey intended to identify potentially failing subsurface waste water disposal systems affecting shellfish harvesting areas when requested by either agency. [PL 2007, c. 568, §5 (NEW).]

[PL 2007, c. 568, §§3-5 (AMD).]

4. Inspections and permits not required. Plumbing inspections and permits are not required for:

A. Minor plumbing work or minor installations that are performed in compliance with state laws and rules if that plumbing work or those installations are done inside the structure of a private residence by the owner of that residence; [PL 2003, c. 304, §1 (AMD).]

B. Installation of domestic heating appliances by master oil and solid fuel burning technicians licensed pursuant to Title 32, chapter 139; and [PL 2009, c. 344, Pt. D, §6 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

C. Installation of stand-alone water meters, water meters in combination with nontestable backflow prevention devices and related valves by water utility personnel or water utility contractors. The water utility shall include in any notice it provides to a customer regarding entry to install such a meter or related valves a statement that installation of a backflow preventor may necessitate installation by the customer of additional devices, such as an expansion tank, due to thermal expansion. [PL 2003, c. 304, §1 (NEW).]

[PL 2009, c. 344, Pt. D, §6 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A44,C8,C10 (AMD). PL 1991, c. 688, §2 (AMD). PL 1993, c. 404, §B1 (AMD). PL 1997, c. 296, §§3,4 (AMD). PL 1997, c. 456, §20 (AMD). PL 1997, c. 683, §B15 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 304, §1 (AMD). PL 2007, c. 568, §§3-5 (AMD). PL 2009, c. 344, Pt. D, §6 (AMD). PL 2009, c. 344, Pt. E, §2 (AFF). PL 2011, c. 655, Pt. FF, §§6, 7 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF). PL 2019, c. 517, §4 (AMD).

§4222. Approving own work forbidden

A primary or alternate local plumbing inspector may not issue a permit or perform any construction inspection for an internal plumbing job or subsurface wastewater disposal system for which the local plumbing inspector or any employee, employer, agent or representative of the local plumbing inspector has performed or intends to perform a site evaluation or labor or has provided or intends to provide any products or services. [PL 2007, c. 358, §1 (RPR).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 358, §1 (RPR).

§4223. Annual reports

Inspectors of plumbing shall annually, before February 1st, make a full report in detail to their respective municipalities and to the department of all their proceedings during the previous calendar year under this subchapter. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBPART 6-A

PLANNING AND LAND USE REGULATION

CHAPTER 187

PLANNING AND LAND USE REGULATION

SUBCHAPTER 1

GENERAL PROVISIONS

§4301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Affordable housing. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.

A. [PL 1989, c. 878, Pt. A, §83 (RP).]

B. [PL 1989, c. 878, Pt. A, §83 (RP).]

C. [PL 1989, c. 878, Pt. A, §83 (RP).]

D. [PL 1989, c. 878, Pt. A, §83 (RP).]

E. [PL 1989, c. 878, Pt. A, §83 (RP).]

[RR 2017, c. 1, §22 (COR).]

1-A. Cluster development. "Cluster development" means a form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open space and recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture and the reduction in the size of road and utility systems.
[PL 2005, c. 244, §1 (NEW).]

1-B. Age-friendly community. "Age-friendly community" means a community where policies, services, settings and structures support and enable older people to actively age in place and that recognizes the capabilities, resources and needs of older adults, plans to meet the needs of older adults in flexible ways that support healthy and active aging, promotes the inclusion and contributions of older adults in all areas of community life, respects the self-determination and independence of older adults and protects those older adults who are most vulnerable.
[PL 2019, c. 38, §1 (NEW).]

REVISOR'S NOTE: Subsection 1-B as enacted by PL 2019, c. 145, §1 is REALLOCATED TO TITLE 30-A, SECTION 4301, SUBSECTION 1-C

1-C. (REALLOCATED FROM T. 30-A, §4301, sub-§1-B) Accessory dwelling unit. "Accessory dwelling unit" means a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.
[PL 2019, c. 145, §1 (NEW); RR 2019, c. 1, Pt. A, §36 (RAL).]

2. Coastal area. "Coastal area" means a coastal island and any municipality or unorganized township contiguous to tidal waters. The inland boundary of the coastal area is the inland line of any coastal town line.
[PL 2001, c. 578, §1 (AMD).]

3. Comprehensive plan. "Comprehensive plan" means a document or interrelated documents containing the elements established under section 4326, subsections 1 to 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under subchapter II.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 562, §1 (AMD).]

4. Conditional zoning. "Conditional zoning" means the process by which the municipal legislative body may rezone property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

4-A. Critical rural area. "Critical rural area" means a rural area that is specifically identified and designated by a municipality's or multimunicipal region's comprehensive plan as deserving maximum protection from development to preserve natural resources and related economic activities that may include, but are not limited to, significant farmland, forest land or mineral resources; high-value wildlife or fisheries habitat; scenic areas; public water supplies; scarce or especially vulnerable natural resources; and open lands functionally necessary to support a vibrant rural economy.
[PL 2001, c. 578, §2 (NEW).]

4-B. Critical waterfront area. "Critical waterfront area" means a shorefront area characterized by functionally water-dependent uses, as defined in Title 38, section 436-A, subsection 6, and specifically identified and designated by a municipality's or multimunicipal region's comprehensive plan as deserving maximum protection from incompatible development.
[PL 2001, c. 578, §2 (NEW).]

5. Contract zoning. "Contract zoning" means the process by which the property owner, in consideration of the rezoning of that person's property, agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

5-A. Downtown. "Downtown" means:

A. The central business district of a community that serves as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along a main street and intersecting side streets, walkable and served by public infrastructure; or [PL 1999, c. 776, §7 (NEW).]

B. An area identified as a downtown in a comprehensive plan adopted pursuant to chapter 187, subchapter II. [PL 1999, c. 776, §7 (NEW).]

[PL 1999, c. 776, §7 (NEW).]

5-B. Growth-related capital investment. "Growth-related capital investment" means investment by the State in only the following projects, even if privately owned, whether using state, federal or other public funds and whether in the form of a purchase, lease, grant, loan, loan guarantee, credit, tax credit or other financial assistance:

A. Construction or acquisition of newly constructed multifamily rental housing; [PL 1999, c. 776, §7 (NEW).]

B. Development of industrial or business parks; [PL 1999, c. 776, §7 (NEW).]

C. Construction or extension of sewer, water and other utility lines; [PL 1999, c. 776, §7 (NEW).]

D. Grants and loans for public or quasi-public service infrastructure, public or quasi-public facilities and community buildings; and [PL 2001, c. 613, §1 (AMD).]

E. Construction or expansion of state office buildings, state courts, hospitals and other quasi-public facilities and other civic buildings that serve public clients and customers. [PL 2001, c. 613, §1 (AMD).]

"Growth-related capital investment" does not include investment in the following: the operation or maintenance of a governmental or quasi-governmental facility or program; the renovation of a governmental facility that does not significantly expand the facility's capacity; general purpose aid for education; school construction or renovation projects; highway or bridge projects; programs that provide direct financial assistance to individual businesses; community revenue sharing; or public health programs.

[PL 2001, c. 613, §1 (AMD).]

5-C. Department. "Department" means the Department of Agriculture, Conservation and Forestry.

[PL 2011, c. 655, Pt. JJ, §12 (NEW); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Development. "Development" means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6-A. Impact fee. "Impact fee" means a charge or assessment imposed by a municipality against a new development to fund or recoup a portion of the cost of new, expanded or replacement infrastructure facilities necessitated by and attributable at least in part to the new development.

[PL 2005, c. 597, §1 (AMD); PL 2005, c. 597, §4 (AFF).]

6-B. Impact fee ordinance. "Impact fee ordinance" means an ordinance that establishes the applicability, formula and means by which impact fees are assessed.

[PL 2001, c. 406, §1 (NEW).]

6-C. Growth area. "Growth area" means an area that is designated in a municipality's or multimunicipal region's comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combinations of those types of development, and into which most development projected over 10 years is directed.
[PL 2001, c. 578, §3 (NEW).]

7. Implementation program. "Implementation program" means that component of a local growth management program that begins after the adoption of a comprehensive plan and that includes the full range of municipal policy-making powers, including spending and borrowing powers, as well as the powers to adopt or implement ordinances, codes, rules or other land use regulations, tools or mechanisms that carry out the purposes and general policy statements and strategies of the comprehensive plan in a manner consistent with the goals and guidelines of subchapter 2.
[PL 2005, c. 597, §2 (AMD); PL 2005, c. 597, §4 (AFF).]

8. Land use ordinance. "Land use ordinance" means an ordinance or regulation of general application adopted by the municipal legislative body which controls, directs or delineates allowable uses of land and the standards for those uses.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

9. Growth management program. "Growth management program" means a document containing the components described in section 4326, including the implementation program, that is consistent with the goals and guidelines established by subchapter II and that regulates land use beyond that required by Title 38, chapter 3, subchapter I, article 2-B.
[PL 2001, c. 578, §4 (AMD).]

10. Planning committee. "Planning committee" means the committee established by the municipal officers of a municipality or combination of municipalities that has the general responsibility established under sections 4324 and 4326.
[PL 2001, c. 578, §5 (AMD).]

11. Moratorium. "Moratorium" means a land use ordinance or other regulation approved by a municipal legislative body that, if necessary, may be adopted on an emergency basis and given immediate effect and that temporarily defers all development, or a type of development, by withholding any permit, authorization or approval necessary for the specified type or types of development.
[PL 2005, c. 597, §2 (AMD); PL 2005, c. 597, §4 (AFF).]

11-A. Multimunicipal region. "Multimunicipal region" means a region made up of 2 or more municipalities that work together to cooperatively establish a growth management program or independent growth management programs that are unified with respect to the implementation of the state goal identified in section 4312, subsection 3, paragraph A. The several municipalities in a multimunicipal region may establish the region pursuant to section 4325 or chapter 115.
[PL 2001, c. 578, §6 (NEW).]

12. Municipal reviewing authority. "Municipal reviewing authority" means the municipal planning board, agency or office, or if none, the municipal officers.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

13. Office.
[PL 2011, c. 655, Pt. JJ, §13 (RP); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

13-A. Rate of growth ordinance. "Rate of growth ordinance" means a land use ordinance or other rule that limits the number of building or development permits issued by a municipality or other jurisdiction over a designated time frame.
[PL 2001, c. 406, §1 (NEW).]

14. Regional council. "Regional council" means a regional planning commission or a council of governments established under chapter 119, subchapter I.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

14-A. Service center community. "Service center community" means a municipality or group of municipalities identified by the department according to a methodology established by rule that includes 4 basic criteria, including level of retail sales, jobs-to-workers ratio, the amount of federally assisted housing and the volume of service sector jobs. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2011, c. 655, Pt. JJ, §14 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

14-B. Rural area. "Rural area" means a geographic area that is identified and designated in a municipality's or multimunicipal region's comprehensive plan as an area that is deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat and scenic lands, and away from which most development projected over 10 years is diverted.
[PL 2001, c. 578, §6 (NEW).]

14-C. Transitional area. "Transitional area" means an area that is designated in a municipality's or multimunicipal region's comprehensive plan as suitable for a share of projected residential, commercial or industrial development but that is neither intended to accept the amount or density of development appropriate for a growth area nor intended to provide the level of protection for rural resources afforded in a rural area or critical rural area.
[PL 2001, c. 578, §6 (NEW).]

15. Zoning.

[PL 1993, c. 166, §2 (RP).]

15-A. Zoning ordinance. "Zoning ordinance" means a type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.
[PL 1993, c. 166, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §1 (AMD). PL 1989, c. 581, §6 (AMD). PL 1989, c. 878, §A83 (AMD). PL 1991, c. 18, §1 (AMD). PL 1991, c. 722, §5 (AMD). PL 1991, c. 722, §11 (AFF). PL 1991, c. 780, §E1 (AMD). PL 1993, c. 166, §§1-3 (AMD). PL 1995, c. 395, §D12 (AMD). PL 1999, c. 776, §7 (AMD). PL 2001, c. 90, §1 (AMD). PL 2001, c. 406, §1 (AMD). PL 2001, c. 578, §§1-6 (AMD). PL 2001, c. 613, §1 (AMD). PL 2001, c. 673, §1 (AMD). PL 2005, c. 244, §1 (AMD). PL 2005, c. 597, §§1,2 (AMD). PL 2005, c. 597, §4 (AFF). PL 2011, c. 655, Pt. JJ, §§12-14 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). RR 2017, c. 1, §22 (COR). PL 2019, c. 38, §1 (AMD). PL 2019, c. 145, §1 (AMD). RR 2019, c. 1, Pt. A, §36 (COR).

§4302. Nuisances

Any property or use existing in violation of a municipal land use ordinance or regulation is a nuisance. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

SUBCHAPTER 2

GROWTH MANAGEMENT PROGRAM

ARTICLE 1

GENERAL PROVISIONS

§4311. Short title

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1991, c. 622, §F15 (RP).

§4312. Statement of findings, purpose and goals

1. Legislative findings.
[PL 1991, c. 622, Pt. F, §16 (RP).]

2. Legislative purpose. The Legislature declares that it is the purpose of this Act to:

A. Establish, in each municipality of the State, local comprehensive planning and land use management; [PL 1991, c. 622, Pt. F, §17 (AMD).]

B. Encourage municipalities to identify the tools and resources to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility; [PL 1991, c. 622, Pt. F, §17 (AMD).]

C. Encourage local land use ordinances, tools and policies based on local comprehensive plans; [PL 1991, c. 622, Pt. F, §17 (AMD).]

D. Incorporate regional considerations into local planning and decision making so as to ensure consideration of regional needs and the regional impact of development; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. [PL 1991, c. 622, Pt. F, §18 (RP).]

F. Provide for continued direct state regulation of development proposals that occur in areas of statewide concern, that directly impact natural resources of statewide significance or that by their scale or nature otherwise affect vital state interests; [PL 2001, c. 578, §7 (AMD).]

G. Encourage the widest possible involvement by the citizens of each municipality in all aspects of the planning and implementation process, in order to ensure that the plans developed by municipalities have had the benefit of citizen input; and [PL 2001, c. 578, §7 (AMD).]

H. [PL 1991, c. 622, Pt. F, §20 (RP).]

I. Encourage the development and implementation of multimunicipal growth management programs. [PL 2001, c. 578, §8 (NEW).]
[PL 2001, c. 578, §§7, 8 (AMD).]

3. State goals. The Legislature hereby establishes a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development. The Legislature declares that, in order to promote and protect the health, safety and welfare of the citizens of the State, it is in the best interests of the State to achieve the following goals:

A. To encourage orderly growth and development in appropriate areas of each community and region while protecting the State's rural character, making efficient use of public services and preventing development sprawl; [PL 2001, c. 578, §9 (AMD).]

B. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. To promote an economic climate which increases job opportunities and overall economic well-being; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. To encourage and promote affordable, decent housing opportunities for all Maine citizens; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

G. To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

H. To safeguard the State's agricultural and forest resources from development which threatens those resources; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

I. To preserve the State's historic and archeological resources; [PL 2015, c. 349, §1 (AMD).]

J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters; [PL 2019, c. 38, §2 (AMD); PL 2019, c. 145, §2 (AMD); PL 2019, c. 153, §1 (AMD).]

K. To encourage municipalities to develop policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; and [PL 2019, c. 38, §3 (AMD); PL 2019, c. 145, §3 (AMD); PL 2019, c. 153, §2 (AMD).]

L. To encourage municipalities to develop policies that accommodate older adults with aging in place and that encourage the creation of age-friendly communities; [RR 2019, c. 1, Pt. A, §37 (COR).]

REVISOR'S NOTE: Subsection 3, paragraph L as enacted by PL 2019, c. 145, §4 is REALLOCATED TO TITLE 30-A, SECTION 4312, SUBSECTION 3, PARAGRAPH M

REVISOR'S NOTE: Subsection 3, paragraph L as enacted by PL 2019, c. 153, §3 is REALLOCATED TO TITLE 30-A, SECTION 4312, SUBSECTION 3, PARAGRAPH N

M. **(REALLOCATED FROM T. 30-A, §4312, sub-§3, ¶L)** To encourage municipalities to develop policies that provide for accessory dwelling units. [PL 2019, c. 145, §4 (NEW); RR 2019, c. 1, Pt. A, §38 (RAL).]

N. **(REALLOCATED FROM T. 30-A, §4312, sub-§3, ¶L)** To plan for the effects of the rise in sea level on buildings, transportation infrastructure, sewage treatment facilities and other relevant state, regional, municipal or privately held infrastructure, property or resources. [PL 2019, c. 153, §3 (NEW); RR 2019, c. 1, Pt. A, §39 (RAL).]

[PL 2019, c. 38, §§2-4 (AMD); PL 2019, c. 145, §§2-4 (AMD); PL 2019, c. 153, §§1-3 (AMD); RR 2019, c. 1, Pt. A, §§37-39 (COR).]

4. Limitation on state rule-making authority. The department is authorized to adopt rules necessary to carry out the purposes of this subchapter. Rules adopted pursuant to this section are routine

technical rules as defined in Title 5, chapter 375, subchapter 2-A. This section may not be construed to grant any separate regulatory authority to any state agency beyond that necessary to implement this subchapter.
[PL 2011, c. 655, Pt. JJ, §15 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1991, c. 622, §§F16-20 (AMD). PL 2001, c. 406, §2 (AMD). PL 2001, c. 578, §§7-9 (AMD). PL 2011, c. 655, Pt. JJ, §15 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2015, c. 349, §§1, 2 (AMD). PL 2019, c. 38, §§2-4 (AMD). PL 2019, c. 145, §§2-4 (AMD). PL 2019, c. 153, §§1-3 (AMD). RR 2019, c. 1, Pt. A, §§37-39 (COR).

§4313. Transition; savings clause

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §2 (AMD). PL 1991, c. 278, §1 (AMD). PL 1991, c. 622, §F21 (AMD).

§4314. Transition; savings clause

1. Comprehensive plan. A municipal comprehensive plan adopted or amended by a municipality under former Title 30, chapter 239, subchapter 5 or 6 remains in effect until amended or repealed in accordance with the procedures, goals and guidelines established in this subchapter.
[PL 2003, c. 641, §2 (AMD).]

2. Shoreland and floodplain zoning ordinances. Notwithstanding section 4352, subsection 2, any portion of a zoning ordinance that is not consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter is no longer in effect 24 months after adoption of the plan unless the ordinance:

A. Does not regulate land use beyond the area required by Title 38, chapter 3, subchapter 1, article 2-B; or [PL 2003, c. 641, §3 (NEW).]

B. Is adopted pursuant to and complies with the provisions of Title 38, section 440 and complies with the requirements of the Federal Flood Insurance Program. [PL 2003, c. 641, §3 (NEW).]
[PL 2003, c. 641, §3 (RPR).]

3. Rate of growth, zoning and impact fee ordinances. After January 1, 2003, any portion of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter. The portion of a rate of growth, zoning or impact fee ordinance not directly related to an inconsistency identified by a court or during a comprehensive plan review by the department in accordance with section 4347-A, subsection 3-A remains in effect. For purposes of this subsection, "zoning ordinance" does not include an ordinance that applies townwide that is a cluster development ordinance or a design ordinance prescribing the color, shape, height, landscaping, amount of open space or other comparable physical characteristics of development. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

A. [PL 2001, c. 406, §3 (RP).]

B. [PL 2001, c. 406, §3 (RP).]

C. The ordinance or portion of the ordinance is exempted under subsection 2; [PL 2001, c. 406, §3 (NEW).]

D. The municipality or multimunicipal region is under contract with the department to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier; [PL 2011, c. 655, Pt. JJ, §16 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted in accordance with the procedures, goals and guidelines established in this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment; [PL 2005, c. 397, Pt. A, §31 (RPR).]

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the department subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the department to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D; or [PL 2011, c. 655, Pt. JJ, §16 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

G. The ordinance or portion of an ordinance is an adult entertainment establishment ordinance, as defined in section 4352, subsection 2, that has been adopted by a municipality that has not adopted a comprehensive plan. [PL 2003, c. 595, §3 (NEW).]

[PL 2011, c. 655, Pt. JJ, §16 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Encumbered balances at year-end.

[PL 2003, c. 641, §5 (RP).]

SECTION HISTORY

PL 1991, c. 722, §6 (NEW). PL 1991, c. 722, §11 (AFF). PL 1993, c. 73, §1 (AMD). PL 1993, c. 166, §4 (AMD). PL 1993, c. 721, §A1 (AMD). PL 1993, c. 721, §H1 (AFF). PL 2001, c. 406, §3 (AMD). PL 2001, c. 578, §10 (AMD). PL 2003, c. 595, §§1-3 (AMD). PL 2003, c. 641, §§2-5 (AMD). PL 2005, c. 397, §A31 (AMD). PL 2007, c. 247, §1 (AMD). PL 2011, c. 655, Pt. JJ, §16 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF).

ARTICLE 2

GROWTH MANAGEMENT PROGRAMS

§4321. Growth management program established

There is established a program of growth management to accomplish the goals of this subchapter. [PL 2001, c. 578, §12 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 2001, c. 578, §12 (AMD).

§4322. Exception

This article does not apply to municipalities within the jurisdiction of the Maine Land Use Planning Commission. [PL 2001, c. 471, Pt. A, §34 (AMD); PL 2011, c. 682, §38 (REV).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 2001, c. 471, §A34 (AMD). PL 2011, c. 682, §38 (REV).

§4323. Local authority for growth management

Through the exercise of its home rule authority, subject to the express limitations and requirements of this subchapter, every municipality may: [PL 1991, c. 622, Pt. F, §22 (AMD).]

1. Planning. Plan for its future development and growth;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Growth management program. Adopt and amend local growth management programs, including comprehensive plans and implementation programs, consistent with the procedures, goals and guidelines established in this subchapter; and
[PL 2003, c. 641, §6 (AMD).]

3. Other. Do all other things necessary to carry out the purposes of this subchapter.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1991, c. 622, §F22 (AMD). PL 2003, c. 641, §6 (AMD).

§4324. Responsibility for growth management

This section governs a municipality's or multimunicipal region's responsibility for the preparation or amendment of its growth management program. When procedures for the adoption of comprehensive plans and ordinances are governed by other provisions of this Title or municipal charter or ordinance, the municipality or multimunicipal region may modify the procedural requirements of this section as long as a broad range of opportunity for public comment and review is preserved. [PL 2001, c. 578, §13 (AMD).]

1. Growth management program. Each municipality or multimunicipal region may prepare a growth management program in accordance with this section or may amend its existing comprehensive plan and existing land use ordinances to comply with the procedures, goals and guidelines established in this subchapter.
[PL 2003, c. 641, §7 (AMD).]

2. Planning committee. If a municipality or multimunicipal region chooses to prepare a growth management program, the municipal officers of a municipality or combination of municipalities shall designate and establish a planning committee, which may include one or more municipal officials.

A. The municipal officers may designate any existing planning board or district established under subchapter 4, or a former similar provision, as the planning committee. Planning boards established under former Title 30, section 4952, subsection 1 continue to be governed by those provisions until they are superseded by municipal charter or ordinance. [PL 2003, c. 641, §7 (AMD).]

B. The planning committee may develop and maintain a comprehensive plan and may develop any portion of an implementation program to which it is assigned in an adopted comprehensive plan or otherwise directed by the municipal officers or municipal legislative body or bodies. In performing these duties, the planning committee shall:

(1) Hold public hearings and use other methods to solicit and strongly encourage citizen input; and

(2) Prepare the comprehensive plan or any portion of the implementation program to which it is assigned in an adopted comprehensive plan and make recommendations to the municipal legislative body regarding the adoption and implementation of the program or amended program. [PL 2001, c. 578, §13 (AMD).]

[PL 2003, c. 641, §7 (AMD).]

3. Citizen participation. In order to encourage citizen participation in the development of a growth management program, municipalities or multimunicipal regions may adopt growth management programs only after soliciting and considering a broad range of public review and comment. The intent of this subsection is to provide for the broad dissemination of proposals and alternatives, opportunity for written comments, open discussions, information dissemination and consideration of and response to public comments.
[PL 2001, c. 578, §13 (AMD).]

4. Meetings to be public. The planning committee shall conduct all of its meetings in open, public session. Prior public notice must be given for all meetings of the planning committee pursuant to Title 1, section 406.
[PL 2001, c. 578, §13 (AMD).]

5. State review.

[PL 1991, c. 622, Pt. F, §24 (RP).]

6. Comments sent to municipality.

[PL 1991, c. 622, Pt. F, §25 (RP).]

7. Comments and revisions.

[PL 1991, c. 622, Pt. F, §26 (RP).]

8. Public hearing required. The planning committee shall hold at least one public hearing on its proposed comprehensive plan.

A. Notice of a public hearing must be posted in each municipality at least 30 days before the hearing, except that, if a follow-up hearing is held pursuant to comments made at a public hearing, the follow-up hearing may be conducted if public notice is given pursuant to Title 1, section 406. [PL 2003, c. 641, §8 (AMD).]

B. A copy of the proposed comprehensive plan must be made available for public inspection at each municipal office or other convenient location with regular public hours at least 30 days before the hearing. If modification of the plan is proposed pursuant to comments made at a public hearing, and if a follow-up public hearing is to be held, the proposed changes must be made available for public inspection at each municipal office or other convenient location with regular public hours before any follow-up hearing. [PL 2003, c. 641, §8 (AMD).]

[PL 2003, c. 641, §8 (AMD).]

9. Adoption. A comprehensive plan or land use ordinance is considered adopted as part of a growth management program when it has been adopted by the municipality's legislative body. A multimunicipal comprehensive plan or land use ordinance must be adopted by the municipal legislative body of each participating municipality unless another form of legislative authority has been established for this purpose within the municipality or multimunicipal region.
[PL 2001, c. 578, §13 (AMD).]

10. Amendments to an adopted plan. When amending an adopted comprehensive plan, a municipality or multimunicipal region shall follow the same procedures for citizen participation, public notice and public hearing that are required for adoption of a comprehensive plan.
[PL 2001, c. 578, §13 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §§3-5 (AMD). PL 1989, c. 908, §1 (AMD). PL 1991, c. 622, §§F23-27 (AMD). PL 1993, c. 166, §5 (AMD). PL 1993, c. 721, §A2 (AMD). PL 1993, c. 721, §H1 (AFF). PL 2001, c. 578, §13 (AMD). PL 2003, c. 641, §§7,8 (AMD).

§4325. Cooperative municipal growth management activities

This section governs cooperative growth management efforts conducted by 2 or more municipalities. [PL 2001, c. 578, §14 (AMD).]

1. Within municipality. A municipality may exercise its land use planning and management authority over the total land area within its jurisdiction.
[PL 1991, c. 622, Pt. F, §28 (AMD).]

2. Multimunicipal region. Any combination of municipalities may conduct joint planning and regulatory programs to meet the requirements of this subchapter upon adoption of a written comprehensive planning and enforcement agreement by the municipal legislative bodies involved. The municipalities must agree:

A. On procedures for joint action in the preparation and adoption of comprehensive plans, land use regulations and other implementation measures to be conducted on a multimunicipal basis; [PL 2001, c. 578, §14 (AMD).]

B. On the manner of representation on any such joint land use body; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. On the amount and source of contribution from each municipality for any costs incurred in the development, implementation and enforcement of the comprehensive plan and its implementation program and on the method of distributing the benefits or impacts of regional land use, economic development, housing, transportation, infrastructure and other shared plans and programs. [PL 2001, c. 578, §14 (AMD).]
[PL 2001, c. 578, §14 (AMD).]

3. Requirements. The comprehensive planning and enforcement agreement must be in writing, approved by the municipal legislative bodies and forwarded to the office.
[PL 2001, c. 578, §14 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1991, c. 622, §F28 (AMD). PL 2001, c. 578, §14 (AMD).

§4326. Growth management program elements

(CONFLICT)

A growth management program must include at least a comprehensive plan, as described in subsections 1 to 4-A, and an implementation program as described in subsection 5. [PL 2019, c. 153, §4 (AMD).]

1. Inventory and analysis. A comprehensive plan must include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance that the municipality or multimunicipal region considers important. The inventory must be based on information provided by the State, regional councils and other relevant local sources. The analysis must include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The inventory and analysis section must include, but is not limited to:

A. Economic and demographic data describing the municipality or multimunicipal region and the region in which it is located; [PL 2001, c. 578, §15 (AMD).]

B. Significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, when applicable, their vulnerability to degradation; [PL 2001, c. 578, §15 (AMD).]

C. Significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas as defined under Title 5, section 3316, and unique natural areas; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Marine-related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. Commercial forestry and agricultural land; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. Existing recreation, park and open space areas and significant points of public access to shorelands within a municipality or multimunicipal region; [PL 2001, c. 578, §15 (AMD).]

G. Existing transportation systems, including the capacity of existing and proposed major thoroughfares, secondary routes, pedestrian ways and parking facilities; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

H. Residential housing stock, including affordable housing, policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets and policies that provide for accessory dwelling units; [PL 2019, c. 145, §5 (AMD).]

H-1. Housing that meets the needs of older residents, including housing that is rehabilitated, adapted or newly constructed to help older adults age in place; [PL 2019, c. 38, §5 (NEW).]

I. Historical and archeological resources including, at the discretion of the municipality or multimunicipal region, stone walls, stone impoundments and timber bridges of historical significance; [PL 2001, c. 578, §15 (AMD).]

J. Land use information describing current and projected development patterns; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

K. An assessment of capital facilities and public services necessary to support growth and development and to protect the environment and health, safety and welfare of the public and the costs of those facilities and services. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 2019, c. 38, §5 (AMD); PL 2019, c. 145, §5 (AMD).]

2. Policy development. A comprehensive plan must include a policy development section that relates the findings contained in the inventory and analysis section to the state goals. The policies must:

A. Promote the state goals under this subchapter; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Address any conflicts between state goals under this subchapter; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Address any conflicts between regional and local issues; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Address the State's coastal policies if any part of the municipality or multimunicipal region is a coastal area. [PL 2001, c. 578, §15 (AMD).]

[PL 2001, c. 578, §15 (AMD).]

3. Implementation strategy. A comprehensive plan must include an implementation strategy section that contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must

be consistent with state law and must actively promote policies developed during the planning process. The timetable must identify significant ordinances to be included in the implementation program. The strategies and timetable must guide the subsequent adoption of policies, programs and land use ordinances and periodic review of the comprehensive plan.

A. [PL 2001, c. 578, §15 (RP); PL 2001, c. 667, Pt. H, §1 (RP); PL 2001, c. 667, Pt. H, §3 (AFF).]

B. [PL 2001, c. 578, §15 (RP).]

C. [PL 2001, c. 578, §15 (RP).]

D. [PL 2001, c. 578, §15 (RP).]

E. [PL 2001, c. 578, §15 (RP).]

F. [PL 2001, c. 578, §15 (RP).]

G. [PL 2001, c. 578, §15 (RP).]

H. [PL 2001, c. 578, §15 (RP).]

I. [PL 2001, c. 578, §15 (RP).]

J. [PL 2001, c. 578, §15 (RP).]

[PL 2007, c. 247, §2 (AMD).]

3-A. Guidelines for policy development and implementation strategies. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality or multimunicipal region shall employ the following guidelines consistent with the goals of this subchapter:

A. Except as otherwise provided in this paragraph, identify and designate geographic areas in the municipality or multimunicipal region as growth areas and rural areas, as defined in this chapter.

(1) Within growth areas, each municipality or multimunicipal region shall:

(a) Establish development standards;

(b) Establish timely permitting procedures;

(c) Ensure that needed public services are available; and

(d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.

(2) Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights, transfer of development rights pursuant to section 4328 and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.

(3) A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.

(4) A municipality or multimunicipal region is not required to identify growth areas within the municipality or multimunicipal region for residential, commercial or industrial growth if it demonstrates, in accordance with rules adopted by the department pursuant to this article, that:

(a) It is not possible to accommodate future residential, commercial or industrial growth within the municipality or multimunicipal region because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources;

(b) The municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period;

(c) The municipality or multimunicipal region has identified as its growth areas one or more growth areas identified in a comprehensive plan adopted or to be adopted by one or more other municipalities or multimunicipal regions in accordance with an interlocal agreement adopted in accordance with chapter 115 with one or more municipalities or multimunicipal regions; or

(d) The municipality or multimunicipal region has no village or densely developed area.

(6) A municipality or multimunicipal region exercising the discretion afforded by subparagraph 4 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A; [PL 2011, c. 655, Pt. JJ, §17 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development; [PL 2001, c. 578, §15 (NEW).]

C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A and ensure that the water quality will be protected from long-term and cumulative increases in phosphorus from development in great pond watersheds; [PL 2001, c. 578, §15 (NEW).]

D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality or multimunicipal region, if authorized to enact ordinances, may adopt ordinances more stringent than applicable state law; [PL 2001, c. 578, §15 (NEW).]

E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal area may identify and designate one or more critical waterfront areas and implement policies to ensure protection of those areas or otherwise discourage new development that is incompatible with uses related to the marine resources industry; [PL 2001, c. 578, §15 (NEW).]

F. Ensure the protection of agricultural and forest resources. Each municipality or multimunicipal region shall discourage new development that is incompatible with uses related to the agricultural and forest industries; [PL 2001, c. 578, §15 (NEW).]

G. **(CONFLICT: Text as amended by PL 2019, c. 38, §6)** Ensure that the municipality's or multimunicipal region's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential development, based on a 5-year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing. A municipality or multimunicipal region is encouraged to seek creative approaches to assist in the development of affordable housing and housing that meets the needs of older residents, including, but not limited to, cluster housing, reduced minimum lot and frontage sizes, increased residential densities, adaptation, rehabilitation and construction of housing that helps older adults age in place,

use of municipally owned land and establishment of policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; [PL 2019, c. 38, §6 (AMD).]

G. **(CONFLICT: Text as amended by PL 2019, c. 145, §6)** Ensure that the municipality's or multimunicipal region's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential development, based on a 5-year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing. A municipality or multimunicipal region is encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to:

(1) Cluster housing;

(2) Reduced minimum lot and frontage sizes;

(3) Increased residential densities;

(4) Use of municipally owned land;

(5) Establishment of policies that:

(a) Assess community needs and environmental effects of municipal regulations;

(b) Lessen the effect of excessive parking requirements for buildings in downtowns and on main streets; and

(c) Provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; and

(6) Provisions for accessory dwelling units; [PL 2019, c. 145, §6 (AMD).]

H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it; [PL 2001, c. 578, §15 (NEW).]

I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking, and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality or multimunicipal region shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting that protection; [PL 2015, c. 349, §5 (AMD).]

J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within the municipality's or multimunicipal region's jurisdiction; [PL 2019, c. 38, §7 (AMD); PL 2019, c. 145, §7 (AMD).]

K. Encourage policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; [RR 2019, c. 1, Pt. A, §40 (COR).]

L. Ensure that land use policies encourage aging in place and appropriate housing options for older residents and address issues of special concern to older adults, including transportation to and accessibility and availability of needed services; and [RR 2019, c. 1, Pt. A, §41 (COR).]

REVISOR'S NOTE: Paragraph L as enacted by PL 2019, c. 145, §9 is REALLOCATED TO TITLE 30-A, SECTION 4326, SUBSECTION 3-A, PARAGRAPH M

M. **(REALLOCATED FROM T. 30-A, §4326, sub-§3-A, ¶L)** Encourage policies that provide for accessory dwelling units. [PL 2019, c. 145, §9 (NEW); RR 2019, c. 1, Pt. A, §42 (RAL).]

[PL 2019, c. 38, §§6-9 (AMD); PL 2019, c. 145, §§6-9 (AMD); RR 2019, c. 1, Pt. A, §§40-42 (COR).]

4. Regional coordination program. A regional coordination program must be developed with other municipalities or multimunicipal regions to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program must provide for consistency with the comprehensive plans of other municipalities or multimunicipal regions for these resources and facilities.

[PL 2001, c. 578, §15 (AMD).]

4-A. Addressing sea level rise. A municipality or multimunicipal region that is in the coastal area may include in its comprehensive plan projections regarding changes in sea level and potential effects of the rise in sea level on buildings, transportation infrastructure, sewage treatment facilities and other relevant municipal, multimunicipal or privately held infrastructure or property and may develop a coordinated plan for addressing the effects of the rise in sea level. For the purposes of this subsection, "coastal area" has the same meaning as in Title 38, section 1802, subsection 1.

[PL 2019, c. 153, §5 (NEW).]

5. Implementation program. An implementation program must be adopted that is consistent with the strategies in subsection 3-A.

[PL 2001, c. 578, §15 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 271, §4 (AMD). PL 1989, c. 562, §6 (AMD). PL 1989, c. 878, §A84 (AMD). PL 1991, c. 79 (AMD). PL 1991, c. 278, §2 (AMD). PL 1991, c. 622, §F29 (AMD). PL 1991, c. 722, §7 (AMD). PL 1991, c. 722, §11 (AFF). PL 1991, c. 838, §§8-11 (AMD). PL 1993, c. 166, §§6,7 (AMD). PL 1993, c. 721, §A3 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1999, c. 776, §8 (AMD). PL 2001, c. 406, §4 (AMD). PL 2001, c. 578, §15 (AMD). PL 2001, c. 592, §1 (AMD). PL 2001, c. 667, §§H1,2 (AMD). PL 2001, c. 667, §H3 (AFF). PL 2007, c. 247, §§2, 3 (AMD). PL 2011, c. 655, Pt. JJ, §17 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2015, c. 349, §§3-6 (AMD). PL 2019, c. 38, §§5-9 (AMD). PL 2019, c. 145, §§5-9 (AMD). PL 2019, c. 153, §§4, 5 (AMD). RR 2019, c. 1, Pt. A, §§40-42 (COR).

§4327. Certification; revisions

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1991, c. 622, §F30 (AMD). PL 1993, c. 721, §A4 (AMD). PL 1993, c. 721, §H1 (AFF). PL 2001, c. 578, §16 (RP).

§4328. Transfer of development rights

In order to comply with the requirement in section 4326 for each municipality to adopt land use policies and ordinances to discourage incompatible development, a municipality may adopt a transfer of development rights program for the transfer of development rights within its boundaries. Two or more municipalities may adopt a program that provides for the transfer of development rights between the municipalities if the municipalities have entered into an interlocal agreement pursuant to chapter 115 for this purpose. [PL 2001, c. 592, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 592, §2 (NEW).

ARTICLE 2-A

EVALUATION

§4331. Evaluation process

The department shall conduct an ongoing evaluation process to determine the effectiveness of state, regional and local efforts under this chapter to achieve the purposes and goals of this chapter. The department shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the department in this effort. [PL 2013, c. 300, §5 (AMD).]

1. Criteria. In conducting the evaluation, the department shall develop criteria based on the goals of this chapter. The criteria must be objective, verifiable and, to the extent practicable, quantifiable.
[PL 2011, c. 655, Pt. JJ, §18 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2. Baseline conditions. The department shall establish a baseline of land use conditions at a level of detail sufficient to permit general comparison of state and regional trends in future land use development patterns.
[PL 2011, c. 655, Pt. JJ, §18 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

3. Public input. The department shall incorporate opportunities for public input and comment into the evaluation process.
[PL 2011, c. 655, Pt. JJ, §18 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Level of analysis. The department shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the department shall compare land use development trends and patterns in a sample of towns that have participated in the program with a matched sample of towns that have not participated. The evaluation performed by the department must include an analysis of the State's financial commitment to growth management.
[PL 2011, c. 655, Pt. JJ, §18 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

5. Periodic reports. Beginning on January 1, 2015, the department shall report in writing on the results of its evaluation process every 4 years and more frequently if necessary. The department shall submit its report to the joint standing committee of the Legislature having jurisdiction over natural resources matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.
[PL 2011, c. 655, Pt. JJ, §18 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

SECTION HISTORY

PL 1993, c. 721, §A5 (NEW). PL 1993, c. 721, §H1 (AFF). PL 2001, c. 578, §17 (AMD). PL 2011, c. 655, Pt. JJ, §18 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2013, c. 300, §5 (AMD).

ARTICLE 3

STATE ROLE IN GROWTH MANAGEMENT

§4341. State duties

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §7 (AMD). PL 1989, c. 631, §§4,6 (AMD). PL 1991, c. 622, §F31 (RP).

§4342. State planning review program

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 546, §3 (AMD). PL 1991, c. 528, §D2 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §D2 (AMD). PL 1991, c. 622, §F31 (RP).

§4343. State review of local programs

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §§8-13 (AMD). PL 1991, c. 278, §3 (AMD). PL 1991, c. 622, §F31 (RP).

§4344. State technical and financial assistance

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §§14,15 (AMD). PL 1989, c. 908, §§2,3 (AMD). PL 1991, c. 622, §F31 (RP).

ARTICLE 3-A

FINANCIAL AND TECHNICAL ASSISTANCE PROGRAM

§4345. Purpose; department to administer program

Under the provisions of this article, a municipality or multimunicipal region may request financial or technical assistance from the department for the purpose of planning and implementing a growth management program. A municipality or multimunicipal region that requests and receives a financial assistance grant shall develop and implement its growth management program in cooperation with the department and in a manner consistent with the procedures, goals and guidelines established in this subchapter. [PL 2011, c. 655, Pt. JJ, §19 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

To accomplish the purposes of this article, the department shall develop and administer a technical and financial assistance program for municipalities or multimunicipal regions. The program must include direct financial assistance for planning and implementation of growth management programs, standards governing the review of growth management programs by the department, technical assistance to municipalities or multimunicipal regions and a voluntary certification program for growth management programs. [PL 2011, c. 655, Pt. JJ, §19 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

SECTION HISTORY

PL 1991, c. 780, §E2 (NEW). PL 1993, c. 721, §A6 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1995, c. 395, §D13 (AMD). PL 2001, c. 578, §18 (AMD). PL 2003, c. 641, §9 (AMD). PL 2011, c. 655, Pt. JJ, §19 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF).

§4346. Technical and financial assistance program

1. Planning assistance grants.
[PL 1993, c. 721, Pt. A, §8 (RP); PL 1993, c. 721, Pt. H, §1 (AFF).]

2. Implementation assistance grants.

[PL 1993, c. 721, Pt. A, §9 (RP); PL 1993, c. 721, Pt. H, §1 (AFF).]

The technical and financial assistance program for municipalities, regional councils and multimunicipal regions is established to encourage and facilitate the adoption and implementation of local, regional and statewide growth management programs. [PL 2001, c. 578, §19 (AMD).]

The department may enter into financial assistance grants only to the extent that funds are available. In making grants, the department shall consider the need for planning in a municipality or multimunicipal region, the proximity of the municipality or multimunicipal region to other areas that are conducting or have completed the planning process and the economic and geographic role of the municipality or multimunicipal region within a regional context. The department may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of local and multimunicipal growth management programs consistent with the procedures, goals and guidelines established in this subchapter. In order to maximize the availability of the technical and financial assistance program to all municipalities, multimunicipal regions and regional councils, financial assistance programs administered competitively under this article are exempt from rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, section 1825-C for use in the purchase of services and the awarding of grants and contracts. The department shall publish a program statement describing its grant program and advertising its availability to eligible applicants. [PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2-A. Financial assistance grants. A contract for a financial assistance grant must:

A. Provide for the payment of a specific amount for the purposes of planning and preparing a comprehensive plan; [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

B. Provide for the payment of a specific amount for the purposes of implementing that plan; and [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

C. Include specific timetables governing the preparation and submission of products by the municipality or multimunicipal region. [PL 2001, c. 578, §19 (AMD).]

The department may not require a municipality or multimunicipal region to provide matching funds in excess of 25% of the value of that municipality's or multimunicipal region's financial assistance contract for its first planning assistance grant and implementation assistance grant. The department may require a higher match for other grants, including, but not limited to, grants for the purpose of updating comprehensive plans. This match limitation does not apply to distribution of federal funds that the department may administer.
[PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2-B. Use of funds. A municipality or multimunicipal region may expend financial assistance grants for:

A. The conduct of surveys, inventories and other data-gathering activities; [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

B. The hiring of planning and other technical staff; [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

C. The retention of planning consultants; [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

D. Contracts with regional councils for planning and related services; [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

E. Assistance in the development of ordinances; [PL 1993, c. 721, Pt. A, §10 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

F. Retention of technical and legal expertise; [PL 2001, c. 578, §19 (AMD).]

G. The updating of growth management programs or components of a program; [PL 2001, c. 578, §19 (AMD).]

G-1. Evaluation of growth management programs; and [PL 2001, c. 578, §19 (NEW).]

H. Any other purpose agreed to by the department and the municipality or multimunicipal region that is directly related to the preparation of a comprehensive plan or the implementation of a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter. [PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

[PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2-C. Program evaluation. Any recipient of a financial assistance grant shall cooperate with the department in performing program evaluations required under section 4331.

[PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2-D. Encumbered balances at year-end. Notwithstanding Title 5, section 1589, at the end of each fiscal year, all encumbered balances accounts for financial assistance and regional planning grants may be carried forward for 2 years beyond the year in which those balances are encumbered.

[PL 2003, c. 641, §12 (NEW).]

3. Technical assistance. Using its own staff, the staff of other state agencies, contractors and the resources of the regional councils, the department shall provide technical assistance to municipalities or multimunicipal regions in the development, administration and enforcement of growth management programs. The technical assistance component of the program must include a set of model land use ordinances or other implementation strategies developed by the department that are consistent with this subchapter.

[PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Regional council assistance. As part of the technical and financial assistance program, the department may develop and administer a program to develop regional education and training programs, regional policies to address state goals and regional assessments. Regional assessments may include, but are not limited to, public infrastructure, inventories of agricultural and commercial forest lands, housing needs, recreation and open space needs, and projections of regional growth and economic development. The program may include guidelines to ensure methodological consistency among the State's regional councils. To implement this program, the department may contract with regional councils to assist the department in reviewing growth management programs, to develop necessary planning information at a regional level or to provide support for local planning efforts.

[PL 2011, c. 655, Pt. JJ, §20 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

5. Coordination. State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state agencies in meeting the state goals; providing available information to regions and municipalities as described in section 4326, subsection 1; cooperating with efforts to integrate and provide access to geographic information system data; making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter:

A. [PL 2011, c. 655, Pt. JJ, §20 (RP); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Department of Economic and Community Development; [PL 1991, c. 780, Pt. E, §2 (NEW).]

C. Department of Environmental Protection; [PL 1991, c. 780, Pt. E, §2 (NEW).]

D. Department of Agriculture, Conservation and Forestry; [PL 1991, c. 780, Pt. E, §2 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

E. Department of Inland Fisheries and Wildlife; [PL 1991, c. 780, Pt. E, §2 (NEW).]

F. Department of Marine Resources; [PL 1991, c. 780, Pt. E, §2 (NEW).]

G. Department of Transportation; [PL 1991, c. 780, Pt. E, §2 (NEW).]

G-1. Department of Health and Human Services; [PL 2001, c. 406, §8 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

G-2. [PL 2011, c. 655, Pt. JJ, §20 (RP); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

H. Finance Authority of Maine; and [PL 1991, c. 780, Pt. E, §2 (NEW).]

I. Maine State Housing Authority. [PL 1991, c. 780, Pt. E, §2 (NEW).]
[PL 2013, c. 300, §6 (AMD).]

SECTION HISTORY

PL 1991, c. 780, §E2 (NEW). PL 1993, c. 166, §8 (AMD). PL 1993, c. 721, §§A7-10 (AMD). PL 1993, c. 721, §H1 (AFF). PL 2001, c. 406, §§5-8 (AMD). PL 2001, c. 578, §19 (AMD). PL 2003, c. 641, §§10-12 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 655, Pt. JJ, §20 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 300, §6 (AMD).

§4347. Review of local programs by office

(REPEALED)

SECTION HISTORY

PL 1991, c. 780, §E2 (NEW). PL 1993, c. 166, §§9,10 (AMD). PL 2001, c. 406, §9 (RP).

§4347-A. Review of programs by department

1. Comprehensive plans. A municipality or multimunicipal region that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the department for review. A municipality or multimunicipal region that chooses to prepare a growth management program without receiving a planning grant under this article may submit its comprehensive plan to the department for review. The department shall review plans for consistency with the procedures, goals and guidelines established in this subchapter. A contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the department. A comprehensive plan submitted for review more than 12 months following a contract end date may be required to contain data, projections and other time-sensitive portions of the plan or program that are in compliance with the department's most current review standards.
[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2. Growth management programs. A municipality or multimunicipal region may at any time request a certificate of consistency for its growth management program.

A. Upon a request for review under this section, the department shall review the program and determine whether the program is consistent with the procedures, goals and guidelines established in this subchapter. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Certification by the former State Planning Office or the department of a municipality's or multimunicipal region's growth management program under this article is valid for 10 years. To maintain certification, a municipality or multimunicipal region shall periodically review its growth management program and submit to the department in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. Certification does not lapse in any year in which the Legislature does not appropriate funds to the department for the

purposes of reviewing programs for recertification. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

C. Upon a request for review under this section, the department may review rate of growth, impact fee and zoning ordinances to determine whether the ordinances are consistent with a comprehensive plan that has been found consistent under this section without requiring submission of all elements of a growth management program. An affirmative finding of consistency by the department is required for a municipality or multimunicipal region to assert jurisdiction as provided in section 4349-A. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

3. Review of growth management program. In reviewing a growth management program, the department shall:

A. Solicit written comments on any proposed growth management program from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a growth management program and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 45 days after the department receives the growth management program.

(1) Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the growth management program.

(2) Any regional council commenting on a growth management program shall determine whether the program is compatible with the programs of other municipalities that may be affected by the program and with regional policies or needs identified by the regional council; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region; [PL 2001, c. 578, §20 (AMD).]

C. Within 90 days after receiving the growth management program, send all written comments on the growth management program to the municipality or multimunicipal region and any applicable regional council. If warranted, the department shall issue findings specifically describing how the submitted growth management program is not consistent with the procedures, goals and guidelines established in this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the growth management program was adopted in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the former State Planning Office or the department and has received a finding of consistency will retain that finding during program certification review by the department as long as the finding of consistency is current as defined in rules adopted by the department; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

D. Provide ample opportunity for the municipality or multimunicipal region submitting a growth management program to respond to and correct any identified deficiencies in the program. A finding of inconsistency for a growth management program may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the program must be resubmitted in its entirety for state review

under the department's most current review standards; and [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

E. Provide an expedited review and certification procedure for those submissions that represent minor amendments to certified growth management programs. [PL 2001, c. 406, §10 (NEW).]

The department's decision on consistency of a growth management program constitutes final agency action.
[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

3-A. Review of comprehensive plan. In reviewing a comprehensive plan, the department shall:

A. Solicit written comments on any proposed comprehensive plan from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a comprehensive plan and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 25 business days after the department receives the comprehensive plan. Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the comprehensive plan; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region; [PL 2007, c. 247, §5 (NEW).]

C. Within 35 business days after receiving the comprehensive plan, notify the municipality or multimunicipal region if the plan is complete for purposes of review. If the department notifies the municipality or multimunicipal region that the plan is not complete for purposes of review, the department shall indicate in its notice necessary additional data or information; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

D. Within 10 business days of issuing notification that a comprehensive plan is complete for purposes of review, issue findings specifically describing whether the submitted plan is consistent with the procedures, goals and guidelines established in this subchapter and identify which inconsistencies in the plan, if any, may directly affect rate of growth, zoning or impact fee ordinances.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the comprehensive plan was developed in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a finding of consistency for the comprehensive plan.

(3) A finding of inconsistency must identify the goals under this subchapter not adequately addressed, specific sections of the rules relating to comprehensive plan review adopted by the department not adequately addressed and recommendations for resolving the inconsistency; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

E. Send all written findings and comments on the comprehensive plan to the municipality or multimunicipal region and any applicable regional council; and [PL 2007, c. 247, §5 (NEW).]

F. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan to respond to and correct any identified deficiencies in the plan. A finding of inconsistency for a comprehensive plan may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the plan must be resubmitted in its entirety for state review under the department's most current review standards. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

If the department finds that a plan is not consistent with the procedures, goals and guidelines established in this subchapter, the municipality or multimunicipal district that submitted the plan may appeal that finding to the department within 20 business days of receipt of the finding in accordance with rules adopted by the department, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The department's decision on consistency of a comprehensive plan constitutes final agency action.

A finding by the department pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. A finding by the former State Planning Office issued pursuant to this subchapter prior to December 31, 2000 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, 2012. For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.
[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Updates and amendments. A municipality or multimunicipal region may submit proposed amendments to a comprehensive plan or growth management program to the department for review in the same manner as provided for the review of new plans and programs. Subsequent to voluntary certification under this subsection, the municipality or multimunicipal region shall file a copy of an amendment to a growth management program with the department within 30 days after adopting the amendment and at least 60 days prior to applying for any state grant program that offers a preference for consistency or certification.
[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

5. Regional councils. Subject to the availability of funding and pursuant to the conditions of a contract, each regional council shall review and submit written comments on the comprehensive plan or growth management program of any municipality or multimunicipal region within its planning region. The comments must be submitted to the department and contain an analysis of:

A. Whether the comprehensive plan or growth management program is compatible with identified regional policies and needs; and [PL 2001, c. 406, §10 (NEW).]

B. Whether the comprehensive plan or growth management program is compatible with plans or programs of municipalities or multimunicipal regions that may be affected by the proposal. [PL 2001, c. 578, §20 (AMD).]

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

SECTION HISTORY

PL 2001, c. 406, §10 (NEW). PL 2001, c. 578, §20 (AMD). PL 2003, c. 641, §§13-15 (AMD). PL 2007, c. 247, §§4, 5 (AMD). PL 2011, c. 655, Pt. JJ, §21 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF).

§4348. Voluntary certification

(REPEALED)

SECTION HISTORY

PL 1991, c. 780, §E2 (NEW). PL 1993, c. 166, §11 (AMD). PL 2001, c. 406, §11 (RP).

§4349. Eligibility for other state aid, grants and assistance

(REPEALED)

SECTION HISTORY

PL 1991, c. 780, §E2 (NEW). PL 1993, c. 166, §12 (AMD). PL 1993, c. 721, §B2 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1999, c. 776, §9 (RP).

§4349-A. State capital investments

1. Growth-related capital investments. The State may make growth-related capital investments only in:

A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under section 4347-A; [PL 2003, c. 641, §16 (AMD).]

B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or [PL 1999, c. 776, §10 (NEW).]

C. Areas other than those described in paragraph A or B for the following projects:

(1) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(2) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(3) A pollution control facility;

(4) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(5) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the former State Planning Office funds to assist with the preparation of a comprehensive plan or that received funds from the department to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received; or

(6) A housing project serving the following: individuals with mental illness, developmental disabilities, physical disabilities, brain injuries, substance use disorder or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. A nursing home is not considered a housing project under this paragraph. [PL 2017, c. 407, Pt. A, §120 (AMD).]

[PL 2017, c. 407, Pt. A, §120 (AMD).]

2. State facilities. The Department of Administrative and Financial Services, Bureau of General Services shall develop site selection criteria for state office buildings, state courts, hospitals and other quasi-public facilities and other civic buildings that serve public clients and customers, whether owned or leased by the State, that give preference to the priority locations identified in this subsection while ensuring safe, healthy, appropriate work space for employees and clients and accounting for agency requirements. On-site parking may only be required if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. Employee parking that is within reasonable walking distance may be located off site. If there is a change in employee parking from on-site parking to off-site parking, the Department of Administrative and Financial Services must consult with the duly authorized bargaining agent or agents of the employees. Preference must be given to priority locations in the following order: service center downtowns, service center growth areas and

downtowns and growth areas in other than service center communities. If no suitable priority location exists or if the priority location would impose an undue financial hardship on the occupant or is not within a reasonable distance of the clients and customers served, the facility must be located in accordance with subsection 1. The following state facilities are exempt from this subsection: a lease of less than 500 square feet; and a lease with a tenure of less than one year, including renewals.
[PL 2013, c. 368, Pt. V, §56 (AMD).]

2-A. State's role in implementation of growth management programs. All state agencies, as partners in local and regional growth management efforts, shall contribute to the successful implementation of comprehensive plans and growth management programs adopted under this subchapter by making investments, delivering programs and awarding grants in a manner that reinforces the policies and strategies within the plans or programs. Assistance must be provided within the confines of agency policies, available resources and considerations related to overriding state interest.
[PL 2001, c. 406, §14 (NEW).]

3. Preference for other state grants and investments.

[PL 2003, c. 604, §1 (RP); PL 2003, c. 604, §3 (AFF); PL 2005, c. 397, Pt. A, §32 (RP); PL 2005, c. 397, Pt. A, §33 (AFF).]

3-A. Preference for other state grants and investments. Preference for other state grants and investments is governed by this subsection.

A. When awarding a grant or making a discretionary investment under any of the programs under paragraph B, subparagraphs (1) and (2) or when undertaking its own capital investment programs other than for projects identified in section 4301, subsection 5-B, a state agency shall respect the primary purpose of its grant or investment program and, to the extent feasible, give preference:

(1) First, to a municipality that has received a certificate of consistency for its growth management program under section 4347-A;

(2) Second, to a municipality that has adopted a comprehensive plan that the former State Planning Office or the department has determined is consistent with the procedures, goals and guidelines of this subchapter and has adopted zoning ordinances that the former State Planning Office or the department has determined are consistent with the comprehensive plan; and

(3) Third, to a municipality that has adopted a comprehensive plan that the former State Planning Office or the department has determined is consistent with the procedures, goals and guidelines of this subchapter.

If a municipality has submitted a comprehensive plan, zoning ordinance or growth management program to the former State Planning Office or the department for review, the time for response as established in section 4347-A has expired and comments or findings have not been provided to the municipality, a state agency when awarding a grant or making a discretionary investment under this subsection may not give preference over the municipality to another municipality. [PL 2011, c. 655, Pt. JJ, §23 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. This subsection applies to:

(1) Programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and

(2) Programs intended to:

(a) Accommodate or encourage additional growth and development;

(b) Improve, expand or construct public facilities; or

(c) Acquire land for conservation or management of specific economic and natural resource concerns. [PL 2003, c. 604, §2 (NEW); PL 2003, c. 604, §3 (AFF).]

C. This subsection does not apply to state grants or other assistance for sewage treatment facilities, public health programs or education. [PL 2003, c. 604, §2 (NEW); PL 2003, c. 604, §3 (AFF).]

D. The department shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraph B. [PL 2011, c. 655, Pt. JJ, §23 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

[PL 2011, c. 655, Pt. JJ, §23 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Application. Subsections 1 and 2 apply to a state capital investment for which an application is accepted as complete by the state agency funding the project after January 1, 2001 or which is initiated with the Department of Administrative and Financial Services, Bureau of General Services by a state agency after January 1, 2001.

[PL 1999, c. 776, §10 (NEW).]

SECTION HISTORY

PL 1999, c. 776, §10 (NEW). PL 2001, c. 90, §2 (AMD). PL 2001, c. 406, §§12-15 (AMD). PL 2001, c. 593, §1 (AMD). PL 2001, c. 613, §§2,3 (AMD). PL 2003, c. 510, §A28 (AMD). PL 2003, c. 604, §§1,2 (AMD). PL 2003, c. 604, §3 (AFF). PL 2003, c. 641, §§16,17 (AMD). PL 2005, c. 397, §A32 (AMD). PL 2005, c. 397, §A33 (AFF). PL 2011, c. 542, Pt. A, §54 (AMD). PL 2011, c. 655, Pt. JJ, §§22, 23 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2013, c. 368, Pt. V, §56 (AMD). PL 2013, c. 424, Pt. B, §10 (AMD). PL 2017, c. 407, Pt. A, §120 (AMD).

ARTICLE 3-B

COMMUNITY PRESERVATION ADVISORY COMMITTEE

§4350. Community Preservation Advisory Committee

(REPEALED)

SECTION HISTORY

PL 2001, c. 648, §2 (NEW). PL 2005, c. 201, §1 (AMD). MRSA T. 30-A §4350-A (RP).

§4350-A. Repeal date

(REPEALED)

SECTION HISTORY

PL 2001, c. 648, §2 (NEW). PL 2007, c. 458, §1 (AMD). MRSA T. 30-A §4350-A (RP).

SUBCHAPTER 3

LAND USE REGULATION

§4351. Home rule limitations

This subchapter provides express limitations on municipal home rule authority. [PL 1989, c. 104, Pt. C, §45 and Pt (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4352. Zoning ordinances

A municipal zoning ordinance may provide for any form of zoning consistent with this chapter, subject to the following provisions. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Public participation required. The public shall be given an adequate opportunity to be heard in the preparation of a zoning ordinance.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Relation to comprehensive plan. A zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body, except that adoption of an adult entertainment establishment ordinance does not necessitate adoption of a comprehensive plan by a municipality that has no such comprehensive plan. As used in this section, "adult entertainment establishment ordinance" means an ordinance that regulates the operation of adult amusement stores, adult video stores, adult bookstores, adult novelty stores, adult motion picture theaters, on-site video screening establishments, adult arcades, adult entertainment nightclubs or bars, adult spas, establishments featuring strippers or erotic dancers, escort agencies or other sexually oriented businesses. For purposes of this subsection, "zoning ordinance" does not include a cluster development ordinance or a design ordinance prescribing the color, shape, height, landscaping, amount of open space or other comparable physical characteristics of development.
[PL 2007, c. 247, §6 (AMD).]

3. Zoning map required. A zoning map describing each zone established or modified must be adopted as part of the zoning ordinance or incorporated in the ordinance. Any conflict between the zoning map and a description by metes and bounds shall be resolved in favor of the description by metes and bounds.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

4. Exemptions. Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, by a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 or by a renewable ocean energy project as defined in Title 12, section 1862, subsection 1, paragraph F-1 is wholly or partially exempt from an ordinance only when on petition, notice and public hearing the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2009, c. 615, Pt. G, §1 (AMD).]

5. Effect on local governments. County and municipal governments and districts are subject to any zoning ordinance.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6. Effect on State. A zoning ordinance that is not consistent with a comprehensive plan that is consistent with the provisions of section 4326 is advisory with respect to the State. Except as provided in this section, a state agency shall comply with a zoning ordinance consistent with a comprehensive plan that is consistent with the provisions of section 4326 in seeking to develop any building, parking facility or other publicly owned structure. The Governor or the Governor's designee may, after public notice and opportunity for public comment, including written notice to the municipal officers, waive any use restrictions in those ordinances upon finding that:

A. The proposed use is not allowed anywhere in the municipality; [PL 1993, c. 721, Pt. A, §11 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

B. There are no reasonable alternative sites for or configurations of the project within the municipality that would achieve the necessary public purposes; [PL 1993, c. 721, Pt. A, §11 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

C. There are no reasonable alternatives to the project, including sites in other municipalities, that would achieve the necessary public purposes; [PL 1993, c. 721, Pt. A, §11 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

D. The project will result in public benefits beyond the limits of the municipality, including without limitation, access to public waters or publicly owned lands; and [PL 1993, c. 721, Pt. A, §11 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

E. The project is necessary to protect the public health, welfare or environment. [PL 1993, c. 721, Pt. A, §11 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

A decision to waive a restriction under this section may be appealed by the municipality or any aggrieved party to Superior Court.
[PL 2003, c. 688, Pt. C, §20 (AMD).]

7. Petition for rezoning; bond. Any zoning ordinance may provide that if a person petitions for rezoning of an area for the purpose of development in accordance with an architect's plan the area may not be rezoned unless the petitioner posts a performance bond equal to at least 25% of the estimated cost of the development. The bond shall become payable to the municipality if the petitioner fails to begin construction in a substantial manner and in accordance with the plan within one year of the effective date of the rezoning.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

8. Conditional and contract rezoning. A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:

A. Be consistent with the growth management program adopted under this chapter; [PL 2001, c. 578, §21 (AMD).]

B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and [PL 1991, c. 504, §1 (AMD).]

C. Only include conditions and restrictions that relate to the physical development or operation of the property. [PL 1991, c. 504, §1 (AMD).]

The municipal reviewing authority shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing must be posted in the municipal office at least 13 days before the public hearing. Notice must also be published at least 2 times in a newspaper having general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing. Notice must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known addresses. Notice also must be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.
[PL 2001, c. 578, §21 (AMD).]

9. Notice; general requirements. Before adopting a new zoning ordinance or map or amending an existing zoning ordinance or map, including ordinances or amendments adopted under the laws governing growth management contained in chapter 187, subchapter II or the laws governing shoreland zoning contained in Title 38, chapter 3, subchapter I, article 2-B, the municipal reviewing authority must post and publish notice of the public hearing required under subsection 1 in accordance with the following provisions.

A. The notice must be posted in the municipal office at least 13 days before the public hearing. [PL 1997, c. 36, §2 (AMD).]

B. The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. That notice must be written in plain English, understandable by the average citizen. [PL 1997, c. 36, §2 (AMD).]

C. [PL 1993, c. 374, §3 (RP).]

D. [PL 1993, c. 374, §3 (RP).]

E. Notice must be sent by regular mail to a public drinking water supplier if the area to be rezoned contains its source water protection area. [PL 1999, c. 761, §8 (NEW).]

[PL 1999, c. 761, §8 (AMD).]

10. Additional notice; limited areas. Notice must be given in accordance with this subsection and subsection 9 when a municipality has proposed an amendment to an existing zoning ordinance or map that, within a geographically specific portion of the municipality, has the effect of either prohibiting all industrial, commercial or retail uses where any of these uses is permitted or permitting any industrial, commercial or retail uses where any of these uses is prohibited.

A. The notice must contain a copy of a map indicating the portion of the municipality affected by the proposed amendment. [PL 1993, c. 374, §4 (NEW).]

B. For each parcel within the municipality that is in or abutting the portion of the municipality affected by the proposed amendment, the notice must be mailed by first class mail at least 13 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. Notice also must be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area. The municipal officers shall prepare and file with the municipal clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate. Notice is not required under this paragraph for any type of zoning ordinance adopted under the laws governing growth management contained in chapter 187, subchapter II or the laws governing shoreland zoning contained in Title 38, chapter 3, subchapter I, article 2-B. [PL 1999, c. 761, §9 (AMD).]

Any action challenging the validity of an amendment to a zoning ordinance or map based on a municipality's failure to comply with paragraph B must be brought in Superior Court within 30 days after the adoption of the amended ordinance or map. The Superior Court may invalidate an amended ordinance or map if the appellant demonstrates that the appellant was entitled to receive a notice under paragraph B, that the municipality failed to send the notice as required, that the appellant had no knowledge of the proposed amendment to the ordinance or map and that the appellant was materially prejudiced by that lack of knowledge. Nothing in this subsection alters the right of a person to challenge the validity of any ordinance based on the failure of the municipality to provide notice as required in paragraph A and subsection 9.

[PL 1999, c. 761, §9 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1991, c. 504, §§1,2 (AMD). PL 1993, c. 374, §§3,4 (AMD). PL 1993, c. 721, §A11 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1997, c. 36, §§1-3 (AMD). PL 1999, c. 761, §§7-9 (AMD). PL 2001, c. 578, §21 (AMD). PL 2003, c. 595, §§4,5 (AMD). PL 2003, c. 688, §§C19,20 (AMD). PL 2007, c. 247, §6 (AMD). PL 2007, c. 656, Pt. A, §2 (AMD). PL 2009, c. 615, Pt. G, §1 (AMD).

§4353. Zoning adjustment

Any municipality which adopts a zoning ordinance shall establish a board of appeals subject to this section. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Jurisdiction; procedure. The board of appeals shall hear appeals from any action or failure to act of the official or board responsible for enforcing the zoning ordinance, unless only a direct appeal to Superior Court has been provided by municipal ordinance. The board of appeals is governed by section 2691, except that section 2691, subsection 2, does not apply to boards existing on September 23, 1971.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Powers. In deciding any appeal, the board may:

A. Interpret the provisions of an ordinance called into question; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Approve the issuance of a special exception permit or conditional use permit in strict compliance with the ordinance except that, if the municipality has authorized the planning board, agency or department to issue these permits, an appeal from the granting or denial of such a permit may be taken directly to Superior Court if required by local ordinance; and [PL 2011, c. 655, Pt. JJ, §24 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

C. Grant a variance in strict compliance with subsection 4. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
[PL 2011, c. 655, Pt. JJ, §24 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

3. Parties. The board shall reasonably notify the petitioner, the planning board, agency or department and the municipal officers of any hearing. These persons must be made parties to the action. All interested persons must be given a reasonable opportunity to have their views expressed at any hearing.
[PL 2011, c. 655, Pt. JJ, §25 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Variance. Except as provided in subsections 4-A, 4-B and 4-C and section 4353-A, the board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

A. The land in question can not yield a reasonable return unless a variance is granted; [PL 1991, c. 47, §1 (AMD).]

B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. The granting of a variance will not alter the essential character of the locality; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The hardship is not the result of action taken by the applicant or a prior owner. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

Under its home rule authority, a municipality may, in a zoning ordinance, adopt additional limitations on the granting of a variance, including, but not limited to, a provision that a variance may be granted only for a use permitted in a particular zone.
[PL 2013, c. 186, §1 (AMD).]

4-A. Disability variance; vehicle storage. A disability variance may be granted pursuant to this subsection.

A. The board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The

board shall restrict any variance granted under this paragraph solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability.

The board may impose conditions on the variance granted pursuant to this paragraph, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this paragraph, the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure. [PL 2009, c. 342, §1 (NEW).]

B. If authorized by the zoning ordinance establishing the board, the board may grant a variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this paragraph to the board.

The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, section 521 and owned by the person with the permanent disability. [PL 2009, c. 342, §1 (NEW).]

The board may impose conditions on the variance granted pursuant to this subsection.

All medical records submitted to the board and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.

For purposes of this subsection, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.
[PL 2015, c. 152, §1 (AMD).]

4-B. Set-back variance for single-family dwellings. A municipality may adopt an ordinance that permits the board to grant a set-back variance for a single-family dwelling. An ordinance adopted under this subsection may permit a variance from a set-back requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; [PL 1991, c. 659, §3 (NEW).]

B. The granting of a variance will not alter the essential character of the locality; [PL 1991, c. 659, §3 (NEW).]

C. The hardship is not the result of action taken by the applicant or a prior owner; [PL 1991, c. 659, §3 (NEW).]

D. The granting of the variance will not substantially reduce or impair the use of abutting property; and [PL 1991, c. 659, §3 (NEW).]

E. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available. [PL 1991, c. 659, §3 (NEW).]

An ordinance adopted under this subsection is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

An ordinance may allow for a variance under this subsection to exceed 20% of a set-back requirement, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B, if the petitioner has obtained the written consent of an affected abutting landowner.
[PL 1993, c. 627, §1 (AMD).]

4-C. Variance from dimensional standards. A municipality may adopt an ordinance that permits the board to grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood; [PL 1997, c. 148, §2 (NEW).]

B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties; [PL 1997, c. 148, §2 (NEW).]

C. The practical difficulty is not the result of action taken by the petitioner or a prior owner; [PL 1997, c. 148, §2 (NEW).]

D. No other feasible alternative to a variance is available to the petitioner; [PL 1997, c. 148, §2 (NEW).]

E. The granting of a variance will not unreasonably adversely affect the natural environment; and [PL 1997, c. 148, §2 (NEW).]

F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435. [PL 1997, c. 148, §2 (NEW).]

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Under its home rule authority, a municipality may, in an ordinance adopted pursuant to this subsection, adopt additional limitations on the granting of a variance from the dimensional standards of a zoning ordinance. A zoning ordinance also may explicitly delegate to the municipal reviewing authority the ability to approve development proposals that do not meet the dimensional standards otherwise required, in order to promote cluster development, to accommodate lots with insufficient frontage or to provide for reduced setbacks for lots or buildings made nonconforming by municipal zoning. As long as the development falls within the parameters of such an ordinance, the approval is not considered the granting of a variance. This delegation of authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws, Title 38, chapter 3, subchapter 1, article 2-B.
[PL 2005, c. 244, §2 (AMD).]

5. Variance recorded. If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.

[PL 1989, c. 642 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 642 (AMD). PL 1991, c. 47, §§1,2 (AMD). PL 1991, c. 659, §§1-3 (AMD). PL 1993, c. 627, §1 (AMD). PL 1995, c. 212, §1 (AMD). PL 1997, c. 148, §§1,2 (AMD). PL 2005, c. 244, §2 (AMD). PL 2009, c. 342, §1 (AMD). PL 2011, c. 655, Pt. JJ, §§24, 25 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2013, c. 186, §1 (AMD). PL 2015, c. 152, §1 (AMD).

§4353-A. Code enforcement officer; authority for disability structures permits

Notwithstanding section 4353, a municipality by ordinance may authorize a code enforcement officer to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling. [PL 2013, c. 186, §2 (NEW).]

All medical records submitted to the code enforcement officer and any other documents submitted for the purpose of describing or verifying a person's disability are confidential. [PL 2015, c. 152, §2 (NEW).]

For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps. [PL 2013, c. 186, §2 (NEW).]

For the purposes of this section, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A. [PL 2013, c. 186, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 186, §2 (NEW). PL 2015, c. 152, §2 (AMD).

§4354. Impact fees

A municipality may enact an ordinance under its home rule authority requiring the construction of off-site capital improvements or the payment of impact fees instead of the construction. Notwithstanding section 3442, subsection 2, an impact fee may be imposed that results in a developer or developers paying the entire cost of an infrastructure improvement. A municipality may impose an impact fee either before or after completing the infrastructure improvement. [PL 1991, c. 722, §8 (RPR); PL 1991, c. 722, §11 (AFF).]

1. Construction or fees may be required. The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities.

A. For the purposes of this subsection, infrastructure facilities include, but are not limited to:

(1) Waste water collection and treatment facilities;

(2) Municipal water facilities;

(3) Solid waste facilities;

(4) Public safety equipment and facilities;

(5) Roads and traffic control devices;

(6) Parks and other open space or recreational areas; and

(7) School facilities. [PL 1999, c. 776, §11 (AMD).]

[PL 1999, c. 776, §11 (AMD).]

2. Restrictions. Any ordinance that imposes or provides for the imposition of impact fees must meet the following requirements.

A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development. [PL 1991, c. 18, §3 (AMD).]

B. Funds received from impact fees must be segregated from the municipality's general revenues. The municipality shall expend the funds solely for the purposes for which they were collected. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. The ordinance must establish a reasonable schedule under which the municipality is required to use the funds in a manner consistent with the capital investment component of the comprehensive plan. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The ordinance must establish a mechanism by which the municipality shall refund impact fees, or that portion of impact fees, actually paid that exceed the municipality's actual costs or that were not expended according to the schedule under this subsection. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 562, §17 (AMD).]

E. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 562, §18 (RP).]

[PL 1991, c. 18, §2 (AMD).]

3. Deposit fees in trust fund. Municipalities that are part of a school administrative district or other single or multicommunity school district may deposit collected impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs.

[PL 2001, c. 38, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §§16-18 (AMD). PL 1991, c. 18, §§2,3 (AMD). PL 1991, c. 236, §2 (AMD). PL 1991, c. 722, §8 (AMD). PL 1991, c. 722, §11 (AFF). PL 1999, c. 776, §11 (AMD). PL 2001, c. 38, §1 (AMD).

§4355. Application fees

Any application fee charged by a municipality for an application for any land use permit issued by the municipality may not exceed the reasonable cost of processing, review, regulation and supervision of the application by the municipality and its consultants and the administration of any requirement for a certificate of compliance with any permit conditions. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4356. Moratoria

Any moratorium adopted by a municipality on the processing or issuance of development permits or licenses must meet the following requirements. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Necessity. The moratorium must be needed:

A. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Definite term. The moratorium must be of a definite term of not more than 180 days. The moratorium may be extended for additional 180-day periods if the municipality adopting the moratorium finds that:

A. The problem giving rise to the need for the moratorium still exists; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Extension by selectmen. In municipalities where the municipal legislative body is the town meeting, the selectmen may extend the moratorium in compliance with subsection 2 after notice and hearing.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4357. Community living arrangements

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1997, c. 442, §1 (RP).

§4357-A. Community living arrangements

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

A. "Community living arrangement" means a housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home or intermediate care facility. [PL 1997, c. 442, §2 (NEW).]

B. "Disability" has the same meaning as the term "handicap" in the federal Fair Housing Act, 42 United States Code, Section 3602. [PL 1997, c. 442, §2 (NEW).]

[PL 1997, c. 442, §2 (NEW).]

2. Single-family use. In order to implement the policy of this State that persons with disabilities are not excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a community living arrangement is deemed a single-family use of property for the purposes of zoning. [PL 1997, c. 442, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 442, §2 (NEW).

§4358. Regulation of manufactured housing

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

A. "Manufactured housing" means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, 2 types of manufactured housing are included. Those 2 types are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

(a) This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

(2) Those units commonly called "modular homes" that the manufacturer certifies are constructed in compliance with Title 10, chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit. [PL 1995, c. 625, Pt. A, §35 (AMD).]

B. "Mobile home park" means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 506, §1 (AMD).]

B-1. "Mobile home park lot" means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designated on a mobile home park plan. [PL 1989, c. 506, §2 (NEW).]

C. "Mobile home subdivision or development" means a parcel of land approved by the municipal reviewing authority under subchapter IV for the placement of manufactured houses on individually owned lots. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. "Permanent foundation" means:

(1) For "newer mobile homes," as defined in paragraph A, subparagraph (1), a foundation that conforms to the installation standards established by the Manufactured Housing Board; or

(2) For "modular homes," as defined in paragraph A, subparagraph (2), a foundation that conforms to the municipal building code or, in the absence of a municipal building code, a foundation that conforms to the Building Officials and Code Administrators National Code (1990). [PL 1993, c. 487, §1 (RPR).]

E. "Pitched, shingled roof" means a roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition

shingles or other materials, but specifically excludes corrugated metal roofing material. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1995, c. 625, Pt. A, §35 (AMD).]

2. Location of manufactured housing. Municipalities shall permit manufactured housing to be placed or erected on individual house lots in a number of locations on undeveloped lots where single-family dwellings are allowed, subject to the same requirements as single-family dwellings, except as otherwise provided in this section.

A. For the locations required by this section, municipal ordinances may not require that manufactured housing on individual lots be greater than 14 feet in width, although municipalities may establish design criteria, including, but not limited to, a pitched, shingled roof; a permanent foundation; and exterior siding that is residential in appearance, provided that:

(1) The requirements do not have the effect of circumventing the purposes of this section; and

(2) The design requirements may not be used to prevent the relocation of any manufactured housing, regardless of its date of manufacture, that is legally sited within the municipality as of August 4, 1988. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Providing one or more zones or locations where mobile home parks or mobile home subdivisions or developments are allowed does not constitute compliance with this section. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. This section does not prohibit municipalities from establishing controls on manufactured housing which are less restrictive than are permitted by this section. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Municipalities may not prohibit manufactured housing, regardless of its date of manufacture, solely on the basis of a date of manufacture before June 14, 1976, or the failure of a unit to have been manufactured in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70. Municipalities may apply the design standards permitted by this section to all manufactured housing, regardless of its date of manufacture, and may apply reasonable safety standards to manufactured housing built before June 15, 1976, or not built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70. [RR 1993, c. 1, §75 (COR).]

E. Notwithstanding any other provision of law, any modular home that meets construction standards for state-certified manufactured homes adopted pursuant to Title 10, section 9042 must be allowed in all zones where other single-family homes are allowed. [PL 1995, c. 199, §1 (AMD).]

[PL 1995, c. 199, §1 (AMD).]

3. Regulation of mobile home parks. This subsection governs a municipality's regulation of mobile home parks.

A. Except as required under Title 38, or an ordinance adopted pursuant to Title 38, a municipality shall not require:

(1) The size of any mobile home park lot served by a public sewer system to be larger than the smaller of:

(a) Six thousand five hundred square feet; or

(b) The area of the smallest residential lot permitted in the municipality;

(2) The size of any mobile home park lot with on-site subsurface waste water disposal to be larger than 20,000 square feet; or

(3) The size of any mobile home park lot served by a central on-site subsurface waste water disposal system approved by the Department of Health and Human Services to be larger than 12,000 square feet, provided that a municipality may require that the overall density of the mobile home park be no more than one home for every 20,000 square feet. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 506, §3 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

B. A municipality shall not require the overall area of a mobile home park to be greater than the combined area of its mobile home park lots plus:

(1) The area required for road rights-of-way;

(2) The area required for buffer strips, if any; and

(3) For mobile home parks served by a public sewer, an additional area for open space, storage or recreation, as those terms are defined by local ordinances applicable to all residential developments. A municipality shall not require this additional area to be greater than 10% of the combined area of the individual lots within a mobile home park; and

(4) The area of any setbacks required under Title 38 or an ordinance adopted pursuant to Title 38. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 506, §3 (RPR).]

C. Except as required under Title 38 or an ordinance adopted pursuant to Title 38, a municipality shall not require setbacks that have the effect of requiring lots larger than those permitted under paragraph A. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 506, §3 (RPR).]

D. Notwithstanding paragraph C, a municipality may require that mobile homes on lots adjacent to a public road be set back from the public road according to requirements applicable to other residential developments. [RR 1993, c. 1, §76 (COR).]

E. A municipality shall not require road frontage on individual lots within a mobile home park that has the effect of requiring a manufactured home on the lot to be placed parallel to an adjacent private or public roadway. [PL 1989, c. 506, §3 (NEW).]

F. Except as provided by paragraph G, municipal road standards shall not apply to private roads within a mobile home park unless the developer intends to offer the roads to the municipality for acceptance as town ways. [PL 1989, c. 506, §3 (NEW).]

G. A municipality may require by ordinance or rule that privately owned roads within a mobile home park:

(1) Be built according to acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board;

(2) Have a right-of-way up to 23 feet in width, 20 feet of which the municipality may require to be paved; and

(3) Conform to reasonable safety standards applicable to intersections with public ways adjacent to the mobile home park. [PL 1989, c. 506, §3 (NEW).]

H. The Manufactured Housing Board shall develop standards for construction of roads within a mobile home park no later than January 1, 1990. The board shall submit these standards to the joint standing committee of the Legislature having jurisdiction over legal affairs matters for that committee's review. [PL 1989, c. 506, §3 (NEW).]

I. A municipality may require buffer strips, not to exceed 50 feet, including individual lot setbacks, along any mobile home park boundary which abuts land used for residential use if the per-acre density of homes within the mobile home park is at least 2 times greater than:

(1) The density of residential development on immediately adjacent parcels of land; or

(2) If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or state law.

No structures, streets or utilities may be placed in the buffer strip, except that utilities may cross a buffer strip to provide services to a mobile home park. Municipalities may impose reasonable natural screening requirements within the first 25 feet of the buffer strip as measured from the exterior boundaries of the mobile home park if the requirements are no greater than those for other residential developments. [PL 1989, c. 506, §3 (NEW).]

J. A municipality shall not require electrical utilities and telephone lines to be located underground within a mobile home park. A municipality shall allow a developer to install utilities anywhere within the mobile home park. [PL 1989, c. 506, §3 (NEW).]

K. Except as required under Title 38, or an ordinance adopted pursuant to Title 38, a municipality may not enact or enforce land use regulations or ordinances, including, but not limited to, subdivision regulations or ordinances, which limit the number of lots in a mobile home park, which circumvent the intent of this section or which conflict with the provisions of this section. [PL 1989, c. 506, §3 (NEW).]

L. Notwithstanding any provision in this subsection, a person developing or expanding a mobile home park has the burden of proving that development will not pollute a public water supply or aquifer or violate any state law relating to land development, subdivision or use. [PL 1989, c. 506, §3 (NEW).]

M. A municipality shall permit mobile home parks to expand and to be developed in a number of environmentally suitable locations in the municipality with reasonable consideration being given to permit existing mobile home parks to expand in their existing locations. A municipality may not select a location for a mobile home park development which is not reasonably suitable because of:

(1) Prior lot division;

(2) Locational setting within the municipality;

(3) Natural features; or

(4) Other similar factors.

This paragraph is effective January 1, 1990. [PL 1989, c. 506, §3 (NEW).]
[RR 1993, c. 1, §76 (COR); PL 2003, c. 689, Pt. B, §6 (REV).]

4. Certification of payment of sales tax. No municipality may allow the construction or location of any new manufactured housing within the municipality by any person other than a dealer licensed by the State with a sales tax certificate, without:

A. A bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating the housing in the municipality; or [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. If no such bill of sale is presented, evidence of certification of payment of the sales tax in accordance with Title 36, section 1760, subsection 40, and Title 36, section 1952-B. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

In municipalities which require any type of permit for manufactured housing, the permit is deemed to be not approved or valid until payment of the sales tax has been certified.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 506, §§1-3 (AMD). RR 1993, c. 1, §§75,76 (COR). PL 1993, c. 299, §1 (AMD). PL 1993, c. 487, §1 (AMD). PL 1995, c. 199, §1 (AMD). PL 1995, c. 625, §A35 (AMD). PL 2003, c. 689, §B6 (REV).

§4358-A. Source water protection area

A municipality must notify a public drinking water supplier if a proposed land use project: [PL 1999, c. 761, §10 (NEW).]

1. Source water protection area. Is within its source water protection area; and
[PL 1999, c. 761, §10 (NEW).]

2. Reviewed; abutters notified. Is reviewed by a municipal reviewing authority and, as part of that review, the municipality notifies abutters.
[PL 1999, c. 761, §10 (NEW).]

Notice may be sent by regular mail and with the same advance notice requirements afforded abutters. [PL 1999, c. 761, §10 (NEW).]

SECTION HISTORY

PL 1999, c. 761, §10 (NEW).

§4359. State policy relating to municipal commercial landfill facilities moratoria

It is the policy of this State, with respect to commercial landfill facilities: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. State and municipal control. To affirm the importance of state and municipal control over the establishment of new commercial landfill facilities and over the substantial expansion of existing commercial landfill facilities; and
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Recognition of home rule authority. To recognize that any municipality may, under its home rule authority, enact a moratorium on the issuance or processing of any municipal permit for a new commercial landfill facility or the substantial expansion of a commercial landfill facility, as defined by Title 38, section 1303, subsection 11-B.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4360. Rate of growth ordinances

1. Ordinance review and update. A municipality that enacts a rate of growth ordinance shall review and update the ordinance at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions.
[PL 2003, c. 127, §1 (NEW).]

2. Differential ordinances. A municipality may enact rate of growth ordinances that set different limits on the number of building or development permits that are permitted in designated rural areas and designated growth areas.
[PL 2003, c. 127, §1 (NEW).]

3. Ordinance requirements. A municipality may adopt a rate of growth ordinance only if:

A. The ordinance is consistent with section 4314, subsection 3; [PL 2005, c. 597, §3 (NEW); PL 2005, c. 597, §4 (AFF).]

B. The ordinance sets the number of building or development permits for new residential dwellings, not including permits for affordable housing, at 105% or more of the mean number of permits issued for new residential dwellings within the municipality during the 10 years immediately prior to the year in which the number is calculated. The mean is determined by adding together the total number of permits issued, excluding permits issued for affordable housing, for new residential dwellings for each year in the prior 10 years and then dividing by 10; [PL 2007, c. 155, §1 (AMD); PL 2007, c. 466, Pt. B, §20,21 (AFF).]

C. In addition to the permits established pursuant to paragraph B, the ordinance sets the number of building or development permits for affordable housing at no less than 10% of the number of permits set in the ordinance pursuant to paragraph B; and [PL 2005, c. 597, §3 (NEW); PL 2005, c. 597, §4 (AFF).]

D. The number of building or development permits for new residential dwellings allowed under the ordinance is recalculated every 3 years. [PL 2007, c. 77, §2 (AMD).]

[PL 2007, c. 77, §§1, 2 (AMD); PL 2007, c. 155, §1 (AMD); PL 2007, c. 466, Pt. B, §20,21 (AFF).]

SECTION HISTORY

PL 2001, c. 591, §1 (NEW). PL 2003, c. 127, §1 (RPR). PL 2005, c. 597, §3 (AMD). PL 2005, c. 597, §4 (AFF). PL 2007, c. 77, §§1, 2 (AMD). PL 2007, c. 155, §1 (AMD). PL 2007, c. 466, Pt. B, §20,21 (AFF).

§4361. Coordination of state and municipal decision making; renewable ocean energy projects

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

A. "Coastal area" has the same meaning as in Title 38, section 1802, subsection 1. [PL 2009, c. 615, Pt. G, §2 (NEW).]

B. "Renewable ocean energy project" has the same meaning as in Title 12, section 1862, subsection 1, paragraph F-1. [PL 2009, c. 615, Pt. G, §2 (NEW).]

C. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection 9. [PL 2009, c. 615, Pt. G, §2 (NEW).]

[PL 2009, c. 615, Pt. G, §2 (NEW).]

2. Location of renewable ocean energy projects. A municipality may not enact or enforce a land use ordinance that prohibits siting of renewable ocean energy projects, including but not limited to their associated facilities, within the municipality. Nothing in this section is intended to authorize a municipality to enact or enforce a land use ordinance as applied to submerged lands.

[PL 2009, c. 615, Pt. G, §2 (NEW).]

3. Boundaries; rebuttable presumption. A municipality may not enact or enforce any land use standard or other requirement regarding a renewable ocean energy project unless the project or part of the project over which the municipality asserts approval authority is located within its boundaries, as established in its legislative charter, prior to the effective date of this subsection. In any proceeding regarding the location of a municipality's boundaries for purposes of this section, there is a rebuttable presumption that the boundaries of a municipality in the coastal area do not extend below the mean low-water line on waters subject to tidal influence.

[PL 2009, c. 615, Pt. G, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 615, Pt. G, §2 (NEW).

§4362. Small wireless facilities

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

A. "Small wireless facility" means a wireless facility each antenna of which could fit within an enclosure of no more than 3 cubic feet and of which all associated wireless equipment other than antennas, electric meters and concealment elements has a cumulative volume of no more than 28 cubic feet. [PL 2019, c. 223, §1 (NEW).]

B. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications; radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. "Wireless facility" includes a small wireless facility. "Wireless facility" does not include the structure or improvements on, under, within or adjacent to which the equipment is colocated or coaxial or fiber-optic cable that is between wireless support structures or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. [PL 2019, c. 223, §1 (NEW).]

[PL 2019, c. 223, §1 (NEW).]

2. Small wireless facilities. Notwithstanding any zoning or land use ordinance to the contrary, a small wireless facility must be a permitted use within the public right-of-way, subject to permitting requirements and duly adopted, nondiscriminatory conditions otherwise applicable to permitted uses within the municipality and consistent with state and federal law, including, without limitation, any permitting requirements in Title 35-A, chapter 25. This section does not affect or alter the rights and responsibilities of a cable television company under the franchise agreement executed pursuant to section 3008, subsection 5.

[PL 2019, c. 223, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 223, §1 (NEW).

SUBCHAPTER 3-A

INFORMED GROWTH ACT

§4365. Short title

This subchapter may be known and cited as "the Informed Growth Act." [PL 2007, c. 347, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 347, §1 (NEW).

§4365-A. Municipal opt-in

The provisions of this subchapter do not apply to a municipality unless the municipality has adopted an ordinance that specifically adopts by reference the provisions of this subchapter. Nothing in this subchapter limits the home rule authority of municipalities to adopt ordinances on the same subject matter as this subchapter. [PL 2011, c. 89, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 89, §1 (NEW).

§4366. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 347, §1 (NEW).]

1. Comprehensive economic impact area. "Comprehensive economic impact area" means the geographic area affected by a proposed large-scale retail development. This area includes the municipality and abutting municipalities.
[PL 2007, c. 347, §1 (NEW).]

2. Comprehensive economic impact study. "Comprehensive economic impact study" means a municipal study that estimates the effects of a large-scale retail development on the local economy, downtown and community pursuant to section 4367, subsection 4.
[PL 2007, c. 347, §1 (NEW).]

3. Downtown. "Downtown" means the central business district of a community that serves as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along a main street and intersecting side streets, walkable and served by public infrastructure.
[PL 2007, c. 347, §1 (NEW).]

4. Gross floor area. "Gross floor area" means the aggregate of the areas of each floor of a building or structure, including accessory structures, measured between the exterior faces of the exterior walls or limits of the building or structure at the level of each floor.
[PL 2007, c. 347, §1 (NEW).]

5. Land use permit. "Land use permit" means a municipal permit or approval required by a municipal land ordinance, site plan ordinance, subdivision ordinance, zoning ordinance or building permit ordinance or by the state subdivision law pursuant to subchapter 4.
[PL 2007, c. 347, §1 (NEW).]

6. Large-scale retail development. "Large-scale retail development" means any retail business establishment having a gross floor area of 75,000 square feet or more in one or more buildings at the same location, and any expansion of an existing building or buildings that results in a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more buildings except when the expansion of an existing retail business establishment is less than 20,000 square feet. Other retail business establishments on the same site as the large-scale retail business establishment are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.
[PL 2009, c. 549, §1 (AMD).]

7. Municipal reviewing authority. "Municipal reviewing authority" means the municipal planning board, agency or office or, if none, the municipal officers.
[PL 2007, c. 347, §1 (NEW).]

8. Office.
[PL 2011, c. 89, §2 (RP).]

9. Retail business establishment. "Retail business establishment" means a business engaged in the sale of goods to the ultimate consumer for direct use or consumption.
[PL 2007, c. 347, §1 (NEW).]

10. Undue adverse impact. "Undue adverse impact" means that, within the comprehensive economic impact area, the estimated overall negative effects on the factors listed for consideration in section 4367, subsection 4 outweigh the estimated overall positive effects on those factors.
[PL 2011, c. 89, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 347, §1 (NEW). PL 2009, c. 549, §1 (AMD). PL 2011, c. 89, §§2, 3 (AMD).

§4367. Preparation of comprehensive economic impact study

As part of its review of a land use permit application for a large-scale retail development, a municipal reviewing authority shall require the preparation of a comprehensive economic impact study. [PL 2007, c. 347, §1 (NEW).]

1. Qualified preparer. A comprehensive economic impact study must be prepared by a person, other than the applicant for a large-scale retail development, qualified by education, training and experience to prepare such a study.
[PL 2011, c. 89, §4 (AMD).]

2. Selection of preparer. The selection of the preparer must be mutually agreed upon by the municipal reviewing authority and the applicant. If no mutual agreement is reached within 15 days, the municipal reviewing authority shall select the preparer. The preparer must be qualified in accordance with subsection 1.
[PL 2007, c. 347, §1 (NEW).]

3. Payment. The applicant for the permit shall pay a fee to the municipality. The municipality shall establish the amount of the fee. The development application is not complete for processing until the fee has been paid.

The municipality shall use the fee to cover the municipality's projected costs of the comprehensive economic impact study contract, notice of the public hearing and related municipal staff support. The municipality's contract for the study must be defined and priced to ensure that the fee will be sufficient to cover both the costs of the study and the costs listed in this subsection. Any unexpended funds from the fee must be returned to the applicant.
[PL 2011, c. 89, §5 (AMD).]

4. Comprehensive economic impact study. The comprehensive economic impact study must be completed within 4 months of the filing of the application and must be made available to the municipal reviewing authority, the applicant and the public. It must estimate the effects of the large-scale retail development as set out in this subsection.

A. The municipality may require that the comprehensive economic impact study, using existing studies and data and through the collection and analysis of new data, identify the economic effects of the large-scale retail development on existing retail operations; supply and demand for retail space; number and location of existing retail establishments where there is overlap of goods and services offered; employment, including projected net job creation and loss; retail wages and benefits; captured share of existing retail sales; sales revenue retained and reinvested in the comprehensive economic impact area; municipal revenues generated; municipal capital, service and maintenance costs caused by the development's construction and operation, including costs of roads and police, fire, rescue and sewer services; the amount of public subsidies, including tax increment financing; and public water utility, sewage disposal and solid waste disposal capacity. [PL 2011, c. 89, §6 (AMD).]

B. The comprehensive economic impact study must identify, to the extent that there are available for reference, existing studies and data, the general environmental effects on those factors enumerated in section 4404, regardless of whether the project is a subdivision, and in Title 38, sections 480-D and 484, regardless of the acreage of the project site. [PL 2007, c. 347, §1 (NEW).]

[PL 2011, c. 89, §6 (AMD).]

SECTION HISTORY

PL 2007, c. 347, §1 (NEW). PL 2011, c. 89, §§4-6 (AMD).

§4368. Public hearing

1. Public participation required. The municipal reviewing authority shall provide the public with an adequate opportunity to be heard prior to the approval of a permit for a large-scale retail development.
[PL 2007, c. 347, §1 (NEW).]

2. Notice. Notice of the public hearing on the land use permit application must state that the comprehensive economic impact study will be presented at the hearing and that the municipal reviewing authority will take testimony on the comprehensive impact of the proposed large-scale retail development, and the notice must include the name of any potential retailer, a map of the development location and a map of the comprehensive economic impact area. The municipality shall also provide notice by regular mail to municipal officers of abutting municipalities and to all property owners within 1,000 feet of the proposed development.
[PL 2007, c. 347, §1 (NEW).]

3. Public disclosure of the applicant. If the applicant for a large-scale retail development is not the potential retailer, the applicant shall disclose in its application and at the public hearing the name of the potential retailer, including its commonly used retail name.
[PL 2007, c. 347, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 347, §1 (NEW).

§4369. Land use permit approval

The municipal reviewing authority shall evaluate the impacts of the proposed large-scale retail development based on the comprehensive economic impact study; other materials submitted to the municipal reviewing authority by any person, including the applicant, state agencies, nonprofit organizations and members of the public; and testimony received during the public hearing under section 4368 to issue a finding of undue adverse impact or no undue adverse impact. The municipal reviewing authority may issue a land use permit for a large-scale retail development only if it determines that there is likely to be no undue adverse impact. [PL 2007, c. 347, §1 (NEW).]

Nothing in this Act may preclude a municipality from adopting an ordinance to authorize additional studies and criteria regarding the effects of a proposed large-scale retail development. The requirements of this Act are in addition to all other required federal, state and local land use permit processes that pertain to a proposed large-scale retail development. [PL 2007, c. 347, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 347, §1 (NEW).

§4370. Appeal

The provisions of this subchapter granting persons, municipalities, the State and other entities the opportunity to provide input on a municipal land use permit or approval do not, and may not be interpreted to, authorize persons or entities who would not, absent the provisions of this subchapter, have an interest in or otherwise have standing to appeal a municipal action on the permit or approval.
[PL 2007, c. 347, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 347, §1 (NEW).

§4371. Exemption

(REPEALED)

SECTION HISTORY

PL 2007, c. 347, §1 (NEW). PL 2009, c. 260, §1 (RPR). PL 2011, c. 89, §7 (RP).

§4372. Existing structure

This subchapter does not apply to a retail business establishment proposing to occupy an existing building in which the most recent occupant was a large-scale retail development as long as no increase greater than 20,000 square feet in gross floor area is proposed. [PL 2009, c. 549, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 549, §2 (NEW).

SUBCHAPTER 4

SUBDIVISIONS

§4401. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Dwelling unit. "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2-A. Freshwater wetland. "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and [PL 1989, c. 404, §1 (NEW).]

B. Not considered part of a great pond, coastal wetland, river, stream or brook. [PL 1989, c. 404, §1 (NEW).]

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.
[PL 1989, c. 404, §1 (NEW).]

2-B. Farmland. "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or [PL 2009, c. 356, Pt. C, §1 (NEW).]

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. [PL 2009, c. 356, Pt. C, §1 (NEW).]
[PL 2009, c. 356, Pt. C, §1 (NEW).]

3. Principal structure. "Principal structure" means any building or structure in which the main use of the premises takes place.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §1 (RPR).]

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter. [PL 2001, c. 359, §1 (AMD).]

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance. [PL 2001, c. 651, §1 (AMD).]

D. [PL 2001, c. 359, §2 (RP).]

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related

by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate. [PL 2001, c. 359, §3 (NEW).]

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [PL 2013, c. 126, §1 (AMD).]

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

G. [PL 2017, c. 104, §1 (RP).]

H. [PL 2001, c. 651, §2 (RP).]

H-1. [PL 2017, c. 104, §1 (RP).]

H-2. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2021. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2020 for the definition to remain valid for the grace period ending January 1, 2021. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. [PL 2019, c. 174, §1 (AMD).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §5 (AMD).]

[PL 2019, c. 174, §1 (AMD).]

5. New structure or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

[PL 2007, c. 49, §1 (AMD).]

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

Q. The Saco River from the Little Ossipee River to the New Hampshire border; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

S. The St. George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

U. The Sandy River from the Kennebec River to the Madrid and Township E town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §3 (AMD).]

X. The West Branch of the Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §3 (AMD).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 326, §1 (AMD). PL 1989, c. 404, §1 (AMD). PL 1989, c. 497, §§1-3 (AMD). PL 1989, c. 772, §2 (AMD). PL 1991, c. 500, §§1,2 (AMD). PL 2001, c. 359, §§1-5 (AMD). PL 2001, c. 359, §8 (AFF). PL 2001, c. 523, §§1,2 (AFF). PL 2001, c. 651, §§1-3 (AMD). PL 2007, c. 49, §1 (AMD). PL 2009, c. 356, Pt. C, §1 (AMD). PL 2013, c. 126, §1 (AMD). PL 2017, c. 104, §1 (AMD). PL 2019, c. 174, §1 (AMD).

§4402. Exceptions

This subchapter does not apply to: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Previously approved subdivisions. Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with laws then in effect;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;
[PL 1997, c. 51, §1 (AMD).]

3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971;
[PL 1997, c. 323, §1 (AMD).]

4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration;
[PL 2017, c. 104, §2 (AMD).]

5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:

A. That has been enjoined pursuant to section 4406; [PL 1997, c. 323, §3 (NEW).]

B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds; [PL 1997, c. 323, §3 (NEW).]

C. For which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or [PL 1997, c. 323, §3 (NEW).]

D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds; or [PL 2017, c. 104, §3 (AMD).]
[PL 2017, c. 104, §3 (AMD).]

6. Division of new or existing structures. Beginning July 1, 2018, a division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise in a municipality where the project is subject to municipal site plan review.

A. For the purposes of this subsection, "municipal site plan review" means review under a municipal ordinance that sets forth a process for determining whether a development meets certain specified criteria, which must include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and which may include criteria regarding other environmental effects, layout, scale, appearance and safety. [PL 2019, c. 174, §2 (NEW).]

B. The municipal reviewing authority in each municipality shall determine whether a municipal site plan review ordinance adopted by the municipality meets the requirements of paragraph A. [PL 2019, c. 174, §2 (NEW).]
[PL 2019, c. 174, §2 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1997, c. 51, §§1,2 (AMD). PL 1997, c. 323, §§1-3 (AMD). PL 2017, c. 104, §§2-4 (AMD). PL 2019, c. 174, §2 (AMD).

§4403. Municipal review and regulation

This section governs municipal review of proposed subdivisions. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Municipal reviewing authority. The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1-A. Joint meetings. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in section 4404, subsection 19.

The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.
[PL 1997, c. 226, §1 (AMD).]

2. Regulations; review procedure. The municipal reviewing authority may, after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of this hearing.

A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 3 stages:

(1) Preapplication sketch plan;

(2) Preliminary plan; and

(3) Final plan.

Each stage must meet the time requirements of subsections 4 and 5. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Application; notice; completed application. This subsection governs the procedure to be followed after receiving an application for a proposed subdivision.

A. When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The municipal reviewing authority shall notify by mail a public drinking water supplier if the subdivision is within its source water protection area. [PL 1999, c. 761, §11 (AMD).]

B. Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 141 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 18226. [PL 2013, c. 180, §3 (AMD); PL 2013, c. 180, §6 (AFF).]
[PL 2013, c. 180, §3 (AMD); PL 2013, c. 180, §6 (AFF).]

4. Public hearing; notice. If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it

has received a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:

A. Given to the applicant; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §6 (AMD).]

5. Decision; time limits. The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held, within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:

A. Denying approval of the proposed subdivision; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Granting approval of the proposed subdivision; or [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Granting approval upon any terms and conditions that it considers advisable to:

(1) Satisfy the criteria listed in section 4404;

(2) Satisfy any other regulations adopted by the reviewing authority; and

(3) Protect and preserve the public's health, safety and general welfare. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §7 (AMD).]

6. Burden of proof; findings of fact. In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

7. Conditioned on variance. If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45, C10 (NEW). PL 1989, c. 497, §§4-7 (AMD). PL 1995, c. 93, §1 (AMD). PL 1997, c. 226, §1 (AMD). PL 1999, c. 761, §11 (AMD). PL 2013, c. 180, §3 (AMD). PL 2013, c. 180, §6 (AFF).

§4404. Review criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

A. The elevation of the land above sea level and its relation to the flood plains; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. The nature of soils and subsoils and their ability to adequately support waste disposal; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. The slope of the land and its effect on effluents; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The availability of streams for disposal of effluents; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. The applicable state and local health and water resource rules and regulations; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

[PL 2001, c. 560, §1 (AMD).]

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §8 (AMD).]

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §8 (AMD).]

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §8 (AMD).]

9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §8 (AMD).]

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 429, §1 (AMD); PL 1989, c. 497, §8 (AMD).]

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 429, §1 (AMD); PL 1989, c. 497, §8 (AMD); PL 1989, c. 878, Pt. A, §85 (RPR).]

14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

[PL 1989, c. 404, §2 (NEW); PL 1989, c. 429, §2 (NEW); PL 1989, c. 497, §9 (NEW); PL 1989, c. 772, §3 (AMD); PL 1989, c. 878, Pt. G, §5 (RPR).]

14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

[PL 2009, c. 356, Pt. C, §2 (NEW).]

15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

[PL 1991, c. 838, §12 (AMD).]

16. Storm water. The proposed subdivision will provide for adequate storm water management;

[PL 1991, c. 838, §12 (AMD).]

17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
[PL 1997, c. 226, §2 (AMD).]

18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
[PL 2003, c. 622, §2 (AMD).]

19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and
[PL 2003, c. 622, §3 (AMD).]

20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.
[PL 2003, c. 622, §4 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 404, §2 (AMD). PL 1989, c. 429, §§1,2 (AMD). PL 1989, c. 497, §§8,9 (AMD). PL 1989, c. 762, §§3,4 (AMD). PL 1989, c. 772, §3 (AMD). PL 1989, c. 878, §§A85,86,G5 (AMD). PL 1991, c. 838, §§12-14 (AMD). PL 1997, c. 226, §§2-4 (AMD). PL 2001, c. 560, §1 (AMD). PL 2003, c. 622, §§2-4 (AMD). PL 2009, c. 356, Pt. C, §2 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§4405. Access to direct sunlight

The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height

restrictions, side yard and set-back requirements or other permissible forms of land use controls. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4406. Enforcement; prohibited activities

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under Title 38, chapter 3, subchapter I, article 6, where applicable, and subsequently recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 769, §1 (AMD).]

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:

(a) Indicate the name of the current property owner;

(b) Identify the property by reference to the last recorded deed in its chain of title; and

(c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 2 years of the final subdivision approval or approval under Title 38, chapter 3, subchapter 1, article 6, where applicable, whichever date is later, or the variance is void. [PL 2017, c. 104, §5 (AMD).]

B-1. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:

(1) Indicate the name of the current property owner;

(2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;

(3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised;

(4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and

(5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void. [PL 1989, c. 769, §1 (NEW).]

C. A building official may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 769, §1 (AMD); PL 2007, c. 699, §24 (REV).]

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 769, §1 (AMD).]

E. Any person who, after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6 and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452. [PL 1991, c. 548, Pt. D, §5 (RPR).]

F. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all of the requirements of Title 38, section 488, subsection 5, have been and will be satisfied. [PL 1989, c. 769, §1 (NEW).]

[PL 2017, c. 104, §5 (AMD).]

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, the following:

A. A granite monument; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. A concrete monument; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. An iron pin; or [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. A drill hole in ledge. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Utility installation. A public utility, water district, sanitary district or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officers and the utility, except that if a public utility, water district, sanitary district or utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with this subsection, a subsequent public utility, water district, sanitary district or utility

company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to this section.
[PL 2001, c. 40, §1 (AMD).]

4. Permit display. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted.
[PL 1991, c. 838, §15 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 326, §2 (AMD). PL 1989, c. 497, §10 (AMD). PL 1989, c. 769, §1 (AMD). PL 1989, c. 772, §4 (AMD). PL 1991, c. 548, §D5 (AMD). PL 1991, c. 838, §15 (AMD). PL 1997, c. 199, §1 (AMD). PL 2001, c. 40, §1 (AMD). PL 2007, c. 699, §24 (REV). PL 2017, c. 104, §5 (AMD).

§4407. Revisions to existing plat or plan

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §11 (AMD).]

1. Recording. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:

A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 497, §11 (AMD).

§4408. Recording upon approval

Upon approval of a subdivision plan, plat or document under section 4403, subsection 5, a municipality may not require less than 90 days for the subdivision plan, plat or document to be recorded in the registry of deeds. [PL 2011, c. 245, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 245, §1 (NEW).

SUBCHAPTER 5

ENFORCEMENT OF LAND USE REGULATIONS

§4451. Training and certification for code enforcement officers

1. Certification required; exceptions. A municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the former State Planning Office, the

Department of Economic and Community Development, Office of Community Development or the Department of Public Safety, Office of the State Fire Marshal, except that:

A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section; [PL 1997, c. 296, §5 (AMD).]

B. Whether or not any extension is available under paragraph A, the Department of Public Safety, Office of the State Fire Marshal may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual; [PL 2019, c. 517, §5 (AMD).]

C. An individual may be temporarily authorized in writing by the Department of Health and Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months; and [PL 2009, c. 213, Pt. M, §5 (AMD).]

D. An individual whose certification has expired or is about to expire may be temporarily authorized in writing by the Department of Public Safety, Office of the State Fire Marshal to extend that individual's certification for a period not to exceed 12 months in cases where the necessary training or examination is suspended under subsection 3-B, paragraph E. [PL 2019, c. 517, §5 (AMD).]

[PL 2019, c. 517, §5 (AMD).]

2. Penalty. Any municipality that violates this section commits a civil violation for which a fine of not more than $100 may be adjudged. Each day in violation constitutes a separate offense.
[PL 2019, c. 517, §5 (AMD).]

2-A. Code enforcement officer; definition and duties. As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

A. Shoreland zoning under Title 38, chapter 3, subchapter 1, article 2-B; [PL 2011, c. 655, Pt. FF, §8 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF).]

B. Comprehensive planning and land use under Part 2, Subpart 6-A; [PL 2011, c. 655, Pt. FF, §8 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF).]

C. Internal plumbing under chapter 185, subchapter 3; [PL 2011, c. 655, Pt. FF, §8 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF).]

D. Subsurface wastewater disposal under chapter 185, subchapter 3; and [PL 2011, c. 655, Pt. FF, §8 (AMD); PL 2011, c. 655, Pt. FF, §16 (AFF).]

E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections 4582-B, 4582-C and 4594-F; Title 10, chapter 1103; and Title 25, chapter 313. [PL 2019, c. 517, §5 (AMD).]

[PL 2019, c. 517, §5 (AMD).]

3. Training and certification of code enforcement officers. In cooperation with code enforcement officer professional associations, the Maine Community College System, the Department of Environmental Protection and the Department of Health and Human Services, except as otherwise provided in paragraph H, the Department of Public Safety, Office of the State Fire Marshal shall establish a continuing education program for individuals engaged in code enforcement. This program must provide training in the technical and legal aspects of code enforcement necessary for certification. The training program must include training to provide familiarity with the laws and ordinances related to the structure and practice of the municipal code enforcement office, municipal planning board and appeals board procedures, application review and permitting procedures, inspection procedures and enforcement techniques.

A. [PL 1991, c. 163 (RP).]

B. [PL 1991, c. 163 (RP).]

C. [PL 1991, c. 163 (RP).]

D. [PL 1991, c. 163 (RP).]

E. [PL 1991, c. 163 (RP).]

F. [PL 1991, c. 163 (RP).]

G. [PL 1991, c. 163 (RP).]

H. If funding is not available to support the training and certification program authorized under this subsection, the Department of Public Safety, Office of the State Fire Marshal shall discontinue training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs A and B and shall adopt by routine technical rules under Title 5, chapter 375, subchapter 2-A a program to register code enforcement officers that meet training and education qualifications. The Department of Public Safety, Office of the State Fire Marshal shall publish the list of persons registered for code enforcement who have submitted evidence of required qualifications. Persons registered under this paragraph must meet the requirements for training and certification under this subchapter. The Department of Public Safety, Office of the State Fire Marshal shall consult with the Department of Health and Human Services for the purposes of carrying out training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs C and D. Within one month of discontinuation of training and certification under this paragraph, the Department of Public Safety, Office of the State Fire Marshal shall report 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 state and local government matters a recommendation for funding the training and certification program or for further changes in program requirements. [PL 2019, c. 517, §5 (AMD).]

[PL 2019, c. 517, §5 (AMD).]

3-A. Training and certification of inspectors in the Maine Uniform Building and Energy Code. In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the Department of Public Safety, Office of the State Fire Marshal shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rd-party inspectors.

[PL 2019, c. 517, §5 (AMD).]

3-B. Maine Code Enforcement Training and Certification Fund. The Maine Code Enforcement Training and Certification Fund, referred to in this section as "the fund," is established as a nonlapsing fund to support training and certification programs administered by the Department of Public Safety, Office of the State Fire Marshal for code enforcement officers, local plumbing inspectors, municipal building officials and 3rd-party inspectors in accordance with this subchapter.

A. On July 1st of each year, the funds identified in section 4215, subsection 4 for training and certifying local plumbing inspectors must be transferred to the fund. [PL 2019, c. 517, §5 (AMD).]

B. On July 1st of each year, the funds identified in Title 25, section 2374 for training and certifying municipal building officials, local code enforcement officers and 3rd-party inspectors must be transferred to the fund. [PL 2019, c. 517, §5 (AMD).]

C. The Department of Public Safety, Office of the State Fire Marshal shall place in the fund any money it receives from grants to support the requirements of this subchapter. [PL 2019, c. 517, §5 (AMD).]

D. Funds related to code enforcement training and certification may be expended only in accordance with allocations approved by the Legislature and solely for the administration of this

subchapter. Any balance remaining in the fund at the end of any fiscal year may not lapse but must be carried forward to the next fiscal year. [PL 2009, c. 213, Pt. M, §7 (NEW).]

E. If the fund does not contain sufficient money to support the costs of the training and certification provided for in this subchapter, the Department of Public Safety, Office of the State Fire Marshal may suspend all or reduce the level of training and certification activities. [PL 2019, c. 517, §5 (AMD).]

[PL 2019, c. 517, §5 (AMD).]

4. Examination. The Department of Public Safety, Office of the State Fire Marshal shall conduct at least one examination each year to examine candidates for certification at a time and place designated by it. The Department of Public Safety, Office of the State Fire Marshal may conduct additional examinations to carry out the purposes of this subchapter.

[PL 2019, c. 517, §5 (AMD).]

5. Certification standards. The Department of Public Safety, Office of the State Fire Marshal shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to establish the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection must identify standards for each of the areas of training under subsection 2-A, in addition to general standards that apply to all code enforcement officers.

[PL 2019, c. 517, §5 (AMD).]

6. Certification; terms; revocation. The Department of Public Safety, Office of the State Fire Marshal shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates issued by the former State Planning Office, the Department of Economic and Community Development, Office of Community Development or the Department of Public Safety, Office of the State Fire Marshal are valid for 6 years unless revoked by the District Court. An examination is not required for recertification of code enforcement officers. The Department Public Safety, Office of the State Fire Marshal shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 6-year certification period.

A. The District Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 5, when it finds that:

(1) The code enforcement officer has practiced fraud or deception;

(2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or

(3) The code enforcement officer is incompetent or unable to perform properly the duties of the office. [PL 1999, c. 547, Pt. B, §50 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 2019, c. 517, §5 (AMD).]

7. Other professions unaffected. This subchapter may not be construed to affect or prevent the practice of any other profession.

[PL 1991, c. 163 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 878, §A87 (AMD). PL 1991, c. 163 (AMD). PL 1997, c. 296, §§5-7 (AMD). PL 1999, c. 547, §§B50,78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 689, §B6 (REV). PL 2007, c. 699, §§15-17 (AMD). PL 2009, c. 213, Pt. M, §§5-9 (AMD). PL 2009, c. 261, Pt. A, §14 (AMD). PL 2011, c. 613, §27 (AMD). PL 2011, c. 613, §29 (AFF). PL 2011, c. 655, Pt. FF, §8 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF). PL 2019, c. 40, §1 (AMD). PL 2019, c. 517, §5 (AMD).

§4452. Enforcement of land use laws and ordinances

1. Enforcement. A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building official, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and [PL 1993, c. 23, §1 (AMD).]

C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce. [PL 1993, c. 23, §1 (AMD).]

[PL 1993, c. 23, §1 (AMD); PL 2007, c. 699, §24 (REV).]

2. Liability for violations. Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.

[PL 1991, c. 732, §2 (AMD).]

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is $100, and the maximum penalty is $2,500. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. The minimum penalty for a specific violation is $100, and the maximum penalty is $5,000. [PL 2019, c. 40, §2 (AMD).]

B-1. Notwithstanding paragraph B, the maximum penalty is $10,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. [PL 2019, c. 40, §3 (AMD).]

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:

(1) A threat or hazard to public health or safety;

(2) Substantial environmental damage; or

(3) A substantial injustice. [PL 1989, c. 727, §1 (AMD).]

C-1. [PL 2007, c. 92, §1 (RP).]

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5-year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs. [PL 2011, c. 228, §1 (AMD).]

D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule. [PL 1989, c. 727, §1 (AMD).]

E. In setting a penalty, the court shall consider, but is not limited to, the following:

(1) Prior violations by the same party;

(2) The degree of environmental damage that cannot be abated or corrected;

(3) The extent to which the violation continued following a municipal order to stop; and

(4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. The maximum penalty may exceed the amounts set forth in paragraphs B and B-1, but may not exceed $25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance. [PL 2019, c. 40, §4 (AMD).]

G. The penalties for violations of a septage land disposal or storage site permit issued by the Department of Environmental Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349. [PL 1997, c. 794, Pt. A, §1 (AMD).]

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic

benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. [PL 1989, c. 727, §1 (NEW).]

[PL 2019, c. 40, §§2-4 (AMD).]

4. Proceedings brought for benefit of municipality. All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

5. Application. This section applies to the enforcement of land use laws and ordinances or rules that are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State that is subject to the jurisdiction of the Maine Land Use Planning Commission; [PL 2007, c. 699, §18 (AMD); PL 2011, c. 682, §38 (REV).]

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Local ordinances adopted pursuant to Title 22, section 2642; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 5, sections 4582-B, 4582-C and 4594-F; [PL 2011, c. 613, §28 (AMD); PL 2011, c. 613, §29 (AFF).]

G. Local land use ordinances adopted pursuant to section 3001; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

H. [PL 2007, c. 699, §18 (RP).]

I. [PL 2007, c. 699, §18 (RP).]

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3; [PL 2007, c. 699, §18 (AMD).]

K. Local ordinances regarding electrical installations pursuant tochapter 185, subchapter 2; [PL 2007, c. 699, §18 (AMD).]

L. Local ordinances regarding regulation and inspection of plumbing pursuant tochapter 185, subchapter 3; [PL 2007, c. 699, §18 (AMD).]

M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428 and laws regarding malfunctioning subsurface waste water disposal systems pursuant to Title 38, section 424-A; [PL 2007, c. 568, §6 (AMD).]

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B; [PL 1999, c. 127, Pt. A, §46 (AMD).]

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed; [PL 2005, c. 240, §4 (AMD).]

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; [PL 2007, c. 112, §4 (AMD).]

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [PL 2007, c. 661, Pt. A, §1 (AMD); PL 2007, c. 699, §18 (AMD).]

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; [RR 2007, c. 2, §16 (COR).]

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards; [PL 2017, c. 409, Pt. C, §1 (AMD).]

REVISOR'S NOTE: (Paragraph U as enacted by PL 2007, c. 699, §18 is REALLOCATED TO TITLE 30-A, SECTION 4452, SUBSECTION 5, PARAGRAPH V)

V. **(REALLOCATED FROM T. 30-A, §4452, sub-§5, ¶U)** The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103; and [PL 2017, c. 409, Pt. C, §2 (AMD).]

W. Local land use and business licensing ordinances adopted pursuant to Title 28-B, chapter 1, subchapter 4. [PL 2017, c. 409, Pt. C, §3 (NEW).]

[PL 2017, c. 409, Pt. C, §§1-3 (AMD).]

6. Septage and sludge permits issued by the Department of Environmental Protection. A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

[PL 1997, c. 38, §1 (AMD).]

7. Natural resources protection laws. A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development or the Department of Public Safety, Office of the State Fire Marshal under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

[PL 2019, c. 517, §6 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 287, §§3,4 (AMD). PL 1989, c. 727, §1 (AMD). PL 1991, c. 548, §D6 (AMD). PL 1991, c. 732, §§1-4 (AMD). RR 1993, c. 1, §77

(COR). PL 1993, c. 23, §§1,2 (AMD). PL 1995, c. 58, §1 (AMD). PL 1995, c. 704, §B1 (AMD). PL 1995, c. 704, §C2 (AFF). PL 1997, c. 38, §1 (AMD). PL 1997, c. 296, §8 (AMD). PL 1997, c. 794, §A1 (AMD). PL 1999, c. 127, §A46 (AMD). PL 1999, c. 370, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 148, §1 (AMD). PL 2005, c. 240, §§4-6 (AMD). RR 2007, c. 2, §§16-18 (COR). PL 2007, c. 92, §§1, 2 (AMD). PL 2007, c. 112, §§4-6 (AMD). PL 2007, c. 568, §6 (AMD). PL 2007, c. 569, §1 (AMD). PL 2007, c. 661, Pt. A, §§1-3 (AMD). PL 2007, c. 699, §18 (AMD). PL 2007, c. 699, §24 (REV). PL 2011, c. 228, §1 (AMD). PL 2011, c. 613, §28 (AMD). PL 2011, c. 613, §29 (AFF). PL 2011, c. 655, Pt. FF, §9 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF). PL 2011, c. 682, §38 (REV). PL 2017, c. 409, Pt. C, §§1-3 (AMD). PL 2019, c. 40, §§2-4 (AMD). PL 2019, c. 517, §6 (AMD).

§4453. Certification for representation in court

The Department of Public Safety, Office of the State Fire Marshal shall establish certification standards and a program to certify familiarity with court procedures for the following individuals: [PL 2019, c. 517, §7 (AMD).]

1. Code enforcement officers. Code enforcement officers as set forth in sections 4451 and 4452 and Title 38, section 441;
[PL 1997, c. 296, §9 (NEW).]

2. Plumbing inspectors. Plumbing inspectors as set forth in sections 4221 and 4451;
[PL 1997, c. 296, §9 (NEW).]

3. Department of Environmental Protection. Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; and
[PL 2009, c. 213, Pt. M, §10 (AMD).]

4. Maine Land Use Planning Commission. Maine Land Use Planning Commission employees as set forth in Title 12, section 685-C, subsection 9.
[PL 2009, c. 213, Pt. M, §11 (AMD); PL 2011, c. 682, §38 (REV).]

5. Humane agents and state veterinarians.
[PL 2009, c. 213, Pt. M, §12 (RP).]

SECTION HISTORY

PL 1997, c. 296, §9 (NEW). PL 1997, c. 683, §§B16,17 (AMD). PL 2009, c. 213, Pt. M, §§10-12 (AMD). PL 2011, c. 655, Pt. FF, §10 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF). PL 2011, c. 682, §38 (REV). PL 2019, c. 517, §7 (AMD).

SUBCHAPTER 6

MUNICIPAL REGULATION OF WATER LEVELS AND MINIMUM FLOWS

§4454. Municipal regulation

Pursuant to the provisions of this subchapter, a municipality may adopt an ordinance under its home rule authority to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within its corporate boundary. [PL 1993, c. 370, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 370, §1 (NEW).

§4455. Registration for authority to regulate

Prior to regulating a water level regime or minimum flow on any impounded body of water, a municipality shall adopt an ordinance and submit that ordinance to the Commissioner of Environmental

Protection for review and approval. An ordinance adopted under this section must include: [PL 1993, c. 370, §1 (NEW).]

1. Substance of state law. All substantive provisions of Title 38, chapter 5, subchapter 1, article 3-A. The ordinance may not allow a municipality to establish a water level regime or minimum flow requirements for any dam listed in Title 38, section 840, subsection 1, paragraphs A to D; and [PL 1993, c. 370, §1 (NEW).]

2. Commissioner as petitioner. Provisions allowing the Commissioner of Environmental Protection and any municipality downstream of the impoundment to petition the municipality for an adjudicatory hearing. [PL 1993, c. 370, §1 (NEW).]

An ordinance adopted under this subchapter may establish a fee for adjudicatory hearings conducted by the municipality. [PL 1993, c. 370, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 370, §1 (NEW).

§4456. Interlocal agreements

Two or more municipalities may enter into an interlocal agreement under this section to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within the corporate boundaries of those municipalities only if each municipality has adopted an ordinance that has been approved by the Commissioner of Environmental Protection pursuant to this subchapter. [RR 1993, c. 2, §26 (COR).]

SECTION HISTORY

RR 1993, c. 2, §26 (COR). PL 1993, c. 370, §1 (NEW).

§4457. Assumption of authority

Immediately upon the commissioner's approval of an ordinance submitted under this subchapter, all powers and duties of the Commissioner of Environmental Protection set forth in Title 38, chapter 5, subchapter 1, article 3-A, vest in that municipality. [PL 1993, c. 370, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 370, §1 (NEW).

CHAPTER 189

RIVER CORRIDOR COMMISSIONS

§4461. River corridor commissions encouraged

1. Findings. The Legislature finds that:

A. The effectiveness of local governments in implementing their responsibilities under shoreland zoning can be enhanced by coordination and cooperation among municipalities; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. River corridor commissions have proven their effectiveness as one mechanism to bring about such coordination and cooperation; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Additional river corridor commissions are not likely to be formed without state encouragement and incentives; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Such cooperation serves state interests as stated in Title 12, section 402 and Title 38, chapter 3, subchapter I, article 2-B. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Purpose. It is the policy of the State to encourage the formation of river corridor commissions. The purpose of this law is to:

A. Clarify the procedures for forming river corridor commissions; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Delegate authority to the Commissioner of Agriculture, Conservation and Forestry to approve acceptable proposals to form the river corridor commissions; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

C. Grant additional powers to those river corridor commissions beyond those provided for in chapter 115; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Provide a portion of the funding for the operation of the river corridor commissions. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 2011, c. 657, Pt. W, §6 (REV).

§4462. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Commission. "Commission" means a river corridor commission granted approval by the commissioner under section 4463 and authorized by Title 5, chapter 379, or as established under Title 38, chapter 6.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

3. Department. "Department" means the Department of Agriculture, Conservation and Forestry.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 2011, c. 657, Pt. W, §§5, 6 (REV).

§4463. Approval of river corridor commissions

The commissioner may grant commission status and all the privileges and powers enjoyed by the commissions, as specified in this chapter, when the commissioner finds that: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Occupation of shoreland by 2 or more municipalities. Two or more municipalities, which collectively occupy enough of the shoreland on a river segment to be effective in managing the shorelands of the river, have entered into an agreement under chapter 115, which satisfies the requirements of section 4464;

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Comprehensive plan. The same municipalities have prepared a comprehensive plan which satisfies the requirements of section 4465;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Ordinance. The same municipalities have prepared an ordinance to implement the comprehensive plan which satisfies the requirements of section 4466; and
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

4. Other commissions. No other commission exists on the same river, or the distance between the proposed and existing commissions makes the formation of one larger commission impractical.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4464. Interlocal agreement

In addition to the requirements of section 2203, the interlocal agreement must be consistent with rules adopted by the commissioner under the Maine Administrative Procedure Act, Title 5, chapter 375. These rules may include, but are not limited to: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Minimum duration. The minimum duration of the agreement;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Members; appointment. How members may be appointed;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Municipal responsibilities for financing. What the municipalities' responsibilities for financing the commission are; and
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

4. Withdrawal. How and under what circumstances municipalities may withdraw from the commission.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4465. Comprehensive plan

The comprehensive plan must be consistent with rules adopted by the commissioner under the Maine Administrative Procedure Act, Title 5, chapter 375. These rules may include, but are not limited to: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Resources; problems. What resources or problems the plan must address;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Information; analyses. Information and analyses the plan must contain; and
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Specificity; clarity. The degree of specificity and clarity sought in the plan.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4466. Ordinance

The ordinance to implement the plan must be at least as restrictive as the State's guidelines for municipal shoreland zoning ordinances and shall supersede existing shoreland zoning ordinances. The ordinance must contain adequate procedures for processing permit requests and for considering appeals of a decision made by the commission. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4467. Powers of a river corridor commission

Notwithstanding section 2203, subsection 8, an approved commission may: [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Amendment to comprehensive plan. Amend the comprehensive plan, after notice and hearing on the proposed amendment in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Adoption of rules or ordinances. Adopt and amend rules or ordinances covering an area up to 500 feet from the normal high-water mark necessary to implement the comprehensive plan, after notice and hearing on the proposed amendment or adoption, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Issuance of permits. Issue permits, subject to reasonable conditions for activities requiring permits, or may deny permits under ordinances and rules adopted by the commission;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

4. Fees. Assess fees for permit or variance applications, or for any publications of the commission;
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

5. Suit. Sue and be sued; and
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6. Enforcement. Enforce the rules or ordinances of the commission by instituting any lawful action, injunction or other proceeding to prevent, restrain, correct or abate any violation of its rules or ordinances, and may impose fines as permitted under Title 38, chapter 3, subchapter I, article 2-A.
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4468. Commission budget; financing; staff

The commission shall prepare and submit to the commissioner a biennial budget sufficient to cover its operating and other expenses. Provided the commission continues to satisfy the requirements of section 4463, the commissioner shall request funds to match the funds raised by the commission. In no event may the state contribution exceed $25,000 for any one commission in any year. The commission may accept contributions of any type from any source to assist it in carrying out its assigned tasks, and make any agreements with respect to the administration of those funds, not inconsistent with the purpose of this law, that are required as conditions precedent to receiving the funds, federal or otherwise. Staff of the commission are not considered employees of the State. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

§4469. Appeals to Superior Court

Except where otherwise specified by law, any party or person aggrieved by any order or decision of the commission may, within 30 days after notice of the filing of that order or decision, appeal to the Superior Court by filing a notice of appeal stating the grounds for appeal. The appeal shall be taken under Title 5, section 11001. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW).

CHAPTER 190

JUDICIAL REVIEW OF MUNICIPAL LAND USE DECISIONS

§4481. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2015, c. 459, §1 (NEW).]

1. Significant municipal land use decision. "Significant municipal land use decision" means final action on an application for a land use development project that is either:

A. Submitted to the municipal reviewing authority, as defined by section 4301, subsection 12, under a municipal site plan ordinance or other municipal ordinance adopted under chapter 187, subchapter 3, or pursuant to authority under Title 38, section 488, subsection 19 or section 489-A, but only if the land use development project consists of:

(1) One or more buildings that occupy a total ground area in excess of 10,000 square feet or contain a total floor area in excess of 40,000 square feet; or

(2) A total ground area in excess of 3 acres occupied by buildings, parking lots, roads, paved areas, wharves and other areas to be stripped or graded and not revegetated; or [PL 2015, c. 459, §1 (NEW).]

B. Submitted as a project consisting of 10 or more lots subject to the municipal reviewing authority, as defined by section 4301, subsection 12, under an ordinance adopted underchapter 187, subchapter 4 or pursuant to authority under Title 38, section 488, subsection 19 or section 489-A. [PL 2015, c. 459, §1 (NEW).]

[PL 2015, c. 459, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 459, §1 (NEW).

§4482. Review of significant municipal land use decision

This section governs the process of filing complaints in Superior Court to challenge a significant municipal land use decision or the failure to make such a decision. [PL 2015, c. 459, §1 (NEW).]

1. Review of significant municipal land use decision. A complaint may be filed either in the general docket of the Superior Court for the county in which the municipality is located or directly in a docket designated by the Supreme Judicial Court for business matters. Any complaint filed in the general docket of the Superior Court for the county in which the municipality is located must be transferred upon request of any party to the proceeding to a docket designated by the Supreme Judicial Court for business matters.

[PL 2015, c. 459, §1 (NEW).]

2. Filing of record. The defendant municipality shall file a complete record for review, as described in the Maine Rules of Civil Procedure, Rule 80B, as agreed upon by the parties within 35 days of the commencement of the action, unless the court enlarges the time for cause. The plaintiff shall reimburse the municipality for the cost of producing the record.
[PL 2015, c. 459, §1 (NEW).]

3. Final decision. A party may not file an appeal of a significant municipal land use decision under this section until the decision is a final decision pursuant to section 2691, if the decision is by a board of appeals, or pursuant to section 4482-B, if the decision is by a municipal administrative review board other than a board of appeals.
[PL 2017, c. 241, §4 (NEW).]

SECTION HISTORY

PL 2015, c. 459, §1 (NEW). PL 2017, c. 241, §4 (AMD).

§4482-A. Review of other municipal land use decisions

This section governs the review process for a municipal land use decision that is not a significant municipal land use decision under section 4482, except as provided in section 4482, subsection 3, or a decision of a board of appeals under section 2691. [PL 2017, c. 241, §5 (NEW).]

1. Filing of appeal. A party may file an appeal with the Superior Court of a municipal land use decision subject to this section that is a final decision within 30 days of the date of the vote on the final decision, except that the time period for filing an appeal under this subsection may be extended by the court upon motion for good cause shown. The hearing on an appeal filed pursuant to this section before the Superior Court must be conducted without a jury.
[PL 2017, c. 241, §5 (NEW).]

2. Final decision. A party may not file an appeal of a municipal land use decision subject to this section until the decision is a final decision pursuant to section 4482-B.
[PL 2017, c. 241, §5 (NEW).]

SECTION HISTORY

PL 2017, c. 241, §5 (NEW).

§4482-B. Finality of municipal land use decision

For the purposes of this chapter and except as provided in section 2691, a municipal land use decision is a final decision when an application for a project requiring the approval of one or more municipal boards has received all required municipal administrative approvals by the board of appeals, the planning board or municipal reviewing authority, a site plan or design review board, a historic preservation review board and any other review board created by municipal charter or ordinance. An appeal may not be filed under this section prior to the review and final approval of a project by each applicable municipal administrative review board, except that a denial of an application by a municipal administrative review board is considered a final decision even if other municipal administrative approvals are required for the project and remain pending. An appeal of the denial under this chapter must be in accordance with the requirements of the Maine Rules of Civil Procedure, Rule 80B. [PL 2017, c. 241, §6 (NEW).]

SECTION HISTORY

PL 2017, c. 241, §6 (NEW).

§4483. Appeal of significant municipal land use decision to Law Court

Any party to a review proceeding under this chapter may obtain review of a final judgment by appeal to the Supreme Judicial Court, sitting as the Law Court. The appeal must be taken as in other

civil cases, except that upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule. [PL 2015, c. 459, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 459, §1 (NEW).

SUBPART 7

PLANNING AND ZONING

CHAPTER 191

PLANNING AND ZONING

SUBCHAPTER 1

GENERAL PROVISIONS

§4501. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4502. Comprehensive plan

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4503. Zoning ordinances

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4504. Zoning adjustment

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4505. Savings provisions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4506. Enforcement of land use laws and ordinances

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 282, §1 (AMD). PL 1989, c. 727, §2 (RP). PL 1989, c. 878, §A88 (AMD).

SUBCHAPTER 2

SPECIFIC SUBJECTS OF REGULATION

§4551. Land subdivisions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4552. Community living arrangements

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4553. Regulation of manufactured housing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4554. State policy relating to municipal commercial landfill facilities moratoria

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 193

RIVER CORRIDOR COMMISSIONS

§4601. River corridor commissions encouraged

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4602. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4603. Approval of river corridor commissions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4604. Interlocal agreement

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4605. Comprehensive plan

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4606. Ordinance

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4607. Powers of a river corridor commission

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4608. Commission budget; financing; staff

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

§4609. Appeals to Superior Court

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A46,C10 (RP). PL 1989, c. 104, §§C8,10 (AMD).

SUBPART 8

DEVELOPMENT

CHAPTER 201

HOUSING AUTHORITY

SUBCHAPTER 1

GENERAL PROVISIONS

§4701. Title

This chapter shall be known and may be cited as the "Maine Housing Authorities Act." [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Area of operation. "Area of operation" of a municipal housing authority includes all of the municipality for which it is created and, except as provided in paragraphs A, B and C-1, the area within 10 miles outside its municipal boundaries. The area of operation of the Maine State Housing Authority is the entire State, except as provided in paragraph C-1.

A. A municipal housing authority may not operate in any area in which a municipal housing authority already established is operating without the consent by resolution of the municipal housing authority already operating in that area. [PL 2017, c. 234, §3 (AMD); PL 2017, c. 234, §42 (AFF).]

B. The area of operation of the housing authority of a municipality does not include any area that lies within the municipal boundaries of any municipality for which a municipal housing authority has been organized, without the consent by resolution of the legislative body or the selectmen of the other municipality. [PL 2017, c. 234, §3 (AMD); PL 2017, c. 234, §42 (AFF).]

C. [PL 2017, c. 234, §3 (RP); PL 2017, c. 234, §42 (AFF).]

C-1. A municipal housing authority has exclusive jurisdiction within the municipal boundaries of the municipality for which it was organized to administer regular tenant-based housing choice vouchers under Section 8 of the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, as amended. This paragraph does not limit the authority of the Maine State Housing Authority to administer project-based vouchers or to administer specialty vouchers that are associated with

services such as case management, clinical services, child welfare services or other housing stability services. [PL 2017, c. 234, §3 (NEW); PL 2017, c. 234, §42 (AFF).]

D. [PL 2017, c. 234, §3 (RP); PL 2017, c. 234, §42 (AFF).]

[PL 2017, c. 234, §3 (AMD); PL 2017, c. 234, §42 (AFF).]

2. Authority or housing authority. "Authority" or "housing authority" means any of the public corporations created or authorized to be created by this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bonds. "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an authority under this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Construction loan. "Construction loan" means a loan:

A. For the purpose of developing, constructing, reconstructing or rehabilitating a housing unit or housing project; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Which is secured in the same manner as a mortgage loan is secured. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Conventional mortgage.

[PL 2017, c. 234, §4 (RP).]

6. Elderly. "Elderly" means a person or family as defined in the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, as amended.

[RR 2017, c. 1, §23 (COR).]

7. Financial institution. "Financial institution" means any bank or trust company, savings bank, savings and loan association, industrial bank, national banking association, federal savings and loan association, mortgage banker, credit union or other such institution authorized to do business in the State, or a government agency which customarily provides service or otherwise aids in the financing of mortgage loans.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Home improvement note. "Home improvement note" means an interest bearing obligation, secured in whole or in part by a mortgage, insurance or otherwise as may be agreed upon by the Maine State Housing Authority from time to time, made to improve or rehabilitate single-family or multi-unit residential housing in the State, including, without limitation, the replacement, removal or rehabilitation of malfunctioning waste water treatment systems.

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§1, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Manufactured housing. "Manufactured housing" has the same meaning as found in Title 10, section 9002, subsection 7.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Mortgage loan. "Mortgage loan" or "mortgage" means:

A. An interest-bearing obligation secured by a mortgage constituting a lien on single-family or multi-unit residential housing, including any mortgage loan made for the purpose of acquiring, developing, constructing or reconstructing single-family or multi-unit residential housing or for the purpose of preserving and maintaining the affordability of the housing; [PL 2017, c. 234, §5 (AMD).]

B. An interest-bearing obligation which is fully insured under the Housing Mortgage Insurance Law, if the single-family or multi-unit residential housing is located on either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A home improvement note; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. An interest-bearing obligation secured by an interest in manufactured housing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. An interest-bearing obligation secured by a mortgage, pledge or collateral assignment of a lease of real property or a lease of air rights, provided that:

(1) The security includes a first lien upon the lease; and

(2) Except for mortgage loans secured by manufactured housing located on leased real property or air rights, the real property or air rights are not subject to any prior lien; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. A participation interest in a mortgage loan; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. An interest-bearing obligation secured by a pledge or collateral assignment of a tenant-shareholder's interest in a consumer cooperative organized for housing purposes under Title 13, chapter 85. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

This definition does not preclude the requirement of security in addition to that specified in this subsection for any mortgage loan.
[PL 2017, c. 234, §5 (AMD).]

10-A. Municipal housing authority or municipal authority. "Municipal housing authority" or "municipal authority" means any of the public corporations authorized to be created by section 4721.
[PL 2017, c. 234, §6 (NEW).]

11. Obligee of the authority or obligee. "Obligee of the authority" or "obligee" includes:

A. Any bondholder, agents or trustees for any bondholders; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any lessor demising to the authority property used in connection with a project, or any assignee or assignees of the lessor's interest or any part of that interest; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The Federal Government when it is a party to any contract with the authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Persons of low income. "Persons of low income" means persons or families, elderly or otherwise, who lack the income which is necessary, as determined by a housing authority, to enable them, without financial assistance, to live in or purchase decent, safe and sanitary dwellings, without overcrowding. Financial assistance includes, but is not limited to, the following kinds of assistance:

A. Mortgage insurance; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Interest subsidies; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Rent subsidies; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Public assistance payment or services; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Any other assistance that may be provided by the Maine State Housing Authority through the sale of bonds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

13. Privately insured mortgage.

[PL 2017, c. 234, §7 (RP).]

14. Project or housing project. "Project", "housing project" or "single-family or multi-unit residential housing" means any work or undertaking:

A. To demolish, clear or remove buildings from any slum area; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income. A project may include dwellings, apartments or accommodations occupied by persons other than persons of low income, provided that in the opinion of the responsible authority, a reasonable number of the dwellings, apartments or accommodations in the project are reserved for occupancy by persons of low income. The work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances including private commercial activity subject to the restriction in subparagraph (1), streets, sewers, water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes;

(1) The work or undertaking may include private commercial activity compatible with residential use as determined by an authority, provided that development costs related to that activity do not exceed 40% of the amount of debt financing provided by an authority; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To accomplish a combination of the work or undertaking under paragraphs A and B. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The terms "project" or "housing project" may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection with these activities. The term includes all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

15. Selectmen. "Selectmen" means the board of selectmen of the town or, if the town has no selectmen, the officers charged with the duties customarily imposed on the board of selectmen of a town.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

16. State public body. "State public body" means any city, town, district or other political subdivision of the State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§1,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 574, §1 (AMD). PL 1999, c. 104, §1 (AMD). RR 2017, c. 1, §23 (COR). PL 2017, c. 234, §§3-7 (AMD). PL 2017, c. 234, §42 (AFF).

§4703. Declaration of necessity

1. Housing conditions. It is declared that:

A. There exists in urban and rural areas in the State unsuitable, unsafe and overcrowded dwelling accommodations; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In these urban and rural areas within the State, there is a shortage of suitable dwelling accommodations available at rents, prices or financing terms which many residents of the State can afford and that the shortage forces some residents of the State to occupy unsuitable, unsafe and overcrowded dwelling accommodations; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. These conditions, and the existence of areas in need of revitalization and redevelopment, impair economic values and tax revenues; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. These conditions contribute to the poor health of the residents of these areas, cause an increase in and spread of crime and constitute a menace to the health, safety and welfare of the residents of the State; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. These conditions require excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106

(NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. These areas in the State cannot be cleared, nor can the shortage of suitable dwellings available at affordable rents, prices or financing terms be relieved solely through the operation of private enterprise, and that the construction, rehabilitation or improvement of dwelling accommodations would therefore not be competitive with private enterprise; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The construction, rehabilitation or improvement of dwelling accommodations would make housing available for veterans who are unable to provide themselves with decent housing on the basis of the benefits made available to them through certain government guarantees of loans to veterans for the purchase of residential property; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. The clearance, planning and preparation for rebuilding of these areas, the prevention or the reduction of the underutilization and abandonment of established commercial areas and existing dwelling accommodations within the State, and the providing of affordable, safe and suitable dwelling accommodations for residents of the State are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Residential construction activity is closely correlated with general economic activity and that the undertakings authorized by this chapter to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction which will assist materially in achieving and maintaining full employment; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. Federal programs to assist housing have repeatedly changed and, in the early 1980's, the Federal Government substantially reduced its housing programs and other forms of housing assistance; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

K. By providing housing assistance to persons other than persons of low income, provision of housing assistance to persons of low income will be facilitated; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

L. It is in the public interest that advance preparations for these activities and for facilitating mortgage lending on affordable terms be made now, and that the necessity in the public interest for the provisions enacted is declared as a matter of legislative determination. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Intent. It is further declared that:

A. There are serious problems relating to the occupants of existing substandard housing in the State in both urban and rural areas and much of the existing housing in the State is in immediate need of major repair or replacement; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt.

C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. This chapter is intended to encourage all existing local, state and federal agencies, public and private agencies, to recognize the needs for rehabilitation and new housing and to adopt such action and practices as to promote a concerted effort to upgrade housing conditions and standards within the State; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. This chapter is intended to relieve those conditions which now exist and it is the policy of the State to assist in planning, coordinating and carrying out all existing programs that will encourage further participation by private investment, private enterprise and individual effort. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Shortage of funds. It is further declared that:

A. In private banking channels there have been recurrent, cyclical shortages of funds available for loans to finance dwelling accommodations; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. These shortages have been exacerbated more recently by changes in the business of financial institutions, by the high cost of funds needed for loans for dwelling accommodations and by the related lack of liquidity of existing and new loans for dwelling accommodations; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. These shortages have contributed to the reduction of construction of new dwelling accommodations and have hampered the rehabilitation, improvement and purchase and sale of existing dwelling accommodations; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. These shortages can be expected to recur from time to time in varying degrees of severity with the adverse consequences described in this section; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The powers and duties set forth in this chapter are to be carried out to assist in redressing these shortages. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Objectives. It is further declared that it is the policy of the State to assist its residents in securing equal opportunity for the full enjoyment of the following objectives:

A. To reside in or purchase housing which is decent, safe, independently selected, designed and located with reference to their particular needs and available at costs which they can afford; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To have available to them a wide range of privately planned, constructed and operated housing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To have available to them such additional publicly planned, constructed and operated housing as is needed to achieve the purposes of paragraph A; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. To have available from financial institutions, in addition to their usually loanable resources for home construction, mortgages and notes, additional resources and assistance as may be provided by the Maine State Housing Authority; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. To have available information and educational programs, and to conduct demonstrations of housing programs and techniques. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4704. Planning, zoning and building laws

All projects of an authority are subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the area in which the project is located. In the planning and location of any project, an authority shall conform to any larger or long-range program for the development of the area in which the project is located. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4704-A. Water conservation devices

Notwithstanding section 4704, the purchase and installation of any faucet, shower head, toilet or urinal in a residential building funded by the authority is subject to Title 5, section 1762-A. [PL 1991, c. 246, §11 (NEW).]

SECTION HISTORY

PL 1991, c. 246, §11 (NEW).

§4705. Exemption of property from execution sale

All real property of an authority is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the authority's real property nor may any judgment against an authority be a charge or lien upon its real property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Exceptions. This section does not apply to or limit:

A. The right of obligees to foreclose or otherwise enforce any mortgage or other security of an authority; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The right of the Federal Government to pursue any remedies conferred upon it under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4706. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by an authority or a member, officer, employee or agent of an authority from applicants for residential tenancy in housing owned, financed, assisted or managed by an authority or from any residential tenants of such housing or from any 3rd person pertaining to any applicant for tenancy or to any tenant of such housing; [PL 1993, c. 175, §1 (AMD).]

B. Any written or recorded financial statement, as determined by an authority, of an individual submitted to an authority or a member, officer, employee or agent of an authority, in connection with an application for, or receipt of, a grant, mortgage or mortgage insurance; [PL 2007, c. 562, §1 (AMD).]

C. Any information acquired by the Maine State Housing Authority or a state public body, private corporation, copartnership, association, fuel vendor, private contractor or individual, or an employee, officer or agent of any of those persons or entities, providing services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority, when that information was provided by the applicant for, or recipient of, those services or by a 3rd person; [PL 2007, c. 562, §2 (AMD).]

D. Any statements of financial condition or information pertaining to financial condition submitted to any of the persons or entities set forth in paragraph C in connection with an application for services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority; and [PL 2007, c. 562, §3 (AMD).]

E. The address of a shelter or other living accommodations for victims of domestic violence. [PL 2007, c. 562, §4 (NEW).]

[PL 2007, c. 562, §§1-4 (AMD).]

2. Wrongful disclosure prohibited. No member, officer, employee or agent of an authority may knowingly divulge or disclose information declared confidential by this section, except that:

A. An authority may make such full and complete reports concerning administration of its programs as required by the Federal Government, any agency or department of the Federal Government, or the Legislature; [PL 1993, c. 175, §3 (AMD).]

B. An authority may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner which preserves confidentiality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. An authority may comply with a subpoena, request for production of documents, warrant or court order that appears on its face to have been issued or made upon lawful authority; [PL 1993, c. 175, §3 (AMD).]

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority; [PL 2019, c. 313, §1 (AMD).]

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D; and [PL 2019, c. 313, §2 (AMD).]

F. The Maine State Housing Authority may provide records to the Efficiency Maine Trust pursuant to Title 35-A, section 10104, subsection 4, paragraph A, subparagraph (2). [PL 2019, c. 313, §3 (NEW).]

[PL 2019, c. 313, §§1-3 (AMD).]

3. Waiver. This section shall not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Penalty. A member, officer, employee or agent of an authority who violates subsection 2 commits a civil violation for which a forfeiture of not more than $200 may be adjudged against the member, officer, employee or agent of an authority for each violation. For the purpose of applying penalties under this subsection, a separate violation is deemed to have occurred with respect to each separate act of disclosure.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Confidentiality of personnel records. The following records are confidential and not open to public inspection:

A. Except as otherwise provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the authority for use in the examination or evaluation of applicants for employment by the authority.

(1) Applications, resumes and letters and notes of reference pertaining to the applicant hired, other than those letters and notes of reference expressly submitted in confidence, are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as unlisted or unpublished in an application, resume or letter or note of reference; [PL 2017, c. 234, §8 (NEW).]

B. Authority records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, saving plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number; and [PL 2017, c. 234, §8 (NEW).]

C. Other information to which access by the general public is prohibited by law. [PL 2017, c. 234, §8 (NEW).]

[PL 2017, c. 234, §8 (NEW).]

6. Employee right to review. On written request from an employee or former employee, the authority shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the authority has a personnel file for that employee. The review must take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits that the authority may possess. The records described in subsection 5, paragraph B may also be examined by the employee to whom the records relate, as provided in this subsection.

[PL 2017, c. 234, §8 (NEW).]

7. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, subsection 5 does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2017, c. 234, §8 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 175, §§1-4 (AMD). PL 2007, c. 562, §§1-4 (AMD). PL 2017, c. 234, §8 (AMD). PL 2019, c. 313, §§1-3 (AMD).

SUBCHAPTER 2

ESTABLISHMENT AND ORGANIZATION

§4721. Creation of municipal authorities

1. Creation of housing authorities. In each municipality there is created a public body corporate and politic to be known as the "Housing Authority" of the municipality. This authority may not transact any business or exercise its powers unless the municipal legislative body declares by resolution that there is a need for an authority to function in that municipality.

A. Any housing authority created and existing under Public Law 1943, chapter 260, shall, notwithstanding the expiration of that chapter, continue in existence for the purposes of this chapter and have the powers granted by this chapter, if the legislative body of the municipality for which the housing authority was created declares by resolution that there is a need for that housing authority to exercise the powers granted by this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Procedure. The municipal legislative body shall consider the need for an authority on its own motion or upon the filing of a petition with the mayor of the city or the selectmen of the town. This petition must be signed by 25 voters of the city or town and assert that there is a need for an authority to function in the municipality and request that the municipal legislative body declare that need.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Standard. The municipal legislative body shall adopt a resolution declaring that there is a need for an authority in the municipality if it finds that:

A. Insanitary or unsafe inhabited dwelling accommodations or blighted areas exist in the municipality; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. There is a shortage of safe or sanitary dwelling accommodations in the municipality available to persons of low income at rentals or prices that they can afford. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Appointment of commissioners. Upon the adoption of a resolution by the municipal legislative body, the mayor of the city or the selectmen of the town shall appoint the commissioners of the authority under section 4723, subsection 1.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Meeting with municipal legislative body. Unless the municipality and the authority agree otherwise, an authority shall meet at least annually with the legislative body of the municipality for which it is created.
[PL 2017, c. 234, §9 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §9 (AMD).

§4722. Maine State Housing Authority established; powers, duties and restrictions

The Maine State Housing Authority is established and is a public body corporate and politic and an instrumentality of the State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Powers and duties. In addition to the powers granted by section 4741, the Maine State Housing Authority shall have the powers and duties to:

A. Gather information and statistics on housing and housing-related socioeconomic conditions, using existing sources and data to the fullest extent possible and request reports and obtain information from all state departments, agencies, boards, commissions, authorities and instrumentalities about their respective expenditures for housing and housing-related services and facilities, and about their respective functions and activities related to the financing, construction, leasing or regulation of housing and housing-related services and facilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Develop plans, finance, conduct and encourage in cooperation with other public and private national, state, regional and local agencies, research and demonstration of model housing programs, dealing with, but not limited to, planning, styles of land use, types of building design, techniques of construction, finance techniques, municipal regulations and management procedures; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Provide or coordinate technical assistance and consultation about housing and housing-related activities for or on the behalf of the municipalities, private industry, municipal housing authorities, nonprofit housing corporations, state departments, agencies, boards, commissions, authorities and instrumentalities, the Judicial Department, other organizations and individuals; administer or operate housing or housing-related programs for or on the behalf of municipalities, municipal housing authorities, nonprofit housing corporations, state departments, agencies, boards, commissions, authorities, instrumentalities and the judicial branch and in so doing comply with the programmatic, regulatory or statutory standards as required by that entity, which may take precedence over the authority's eligibility requirements; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Prepare, publish and disseminate educational materials dealing with, but not limited to, the topics listed in paragraph B; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Encourage and coordinate effective use of existing and new resources and available services for housing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Act as the public agency of the State for the purpose of accepting federal funds or other assistance, or funds or other assistance from any other source, in relation to housing activity and for those projects authorized under section 4741, subsection 2 and other relevant provisions of this chapter; [PL 2017, c. 234, §10 (AMD).]

G. Carry out renewal projects and all other powers and duties of an authority under chapter 203; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Issue revenue bonds as provided in this chapter. The authority for the issuance of bonds in any subchapter of this chapter constitutes a complete, additional and alternative method for the issuance of bonds authorized by that subchapter. Any limitation or restriction as to the use of proceeds, total authorized amount of obligations or interest rate, or any other limitation or restriction, applies solely to bonds issued under the subchapter in which the limitation or restriction appears; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on any terms and conditions that the Maine State Housing Authority specifies, any mortgage loan, any mortgage pass-through certificate, any pledge including any pledge or mortgage revenue, any mortgage participation certificate or any other mortgage-backed or mortgage-related security. In connection with the purchase or sale of a mortgage loan or of a beneficial interest or participation in a mortgage loan, the Maine State Housing Authority may enter into one or more agreements providing for the custody, control and administration of the mortgage loan. Any such agreement may provide that:

(1) The Maine State Housing Authority or a financial institution will act as trustor, trustee or custodian under the agreement; and

(2) With respect to mortgage loans governed by the agreement, title to a mortgage loan, or to a beneficial interest or participation in a mortgage 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 mortgage loan is the same as a sale of a mortgage loan; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. Adopt bylaws for the regulation of its affairs and the conduct of its business; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

K. Perform other functions necessary or useful for carrying out any of its powers, duties or purposes; [PL 2017, c. 234, §11 (AMD).]

L. Contract with any financial institution to make mortgage loans on behalf of the Maine State Housing Authority and to make mortgage loans without contracting with a financial institution. The mortgage loans must be made under one or more mortgage loan programs governed by standards established in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

The Maine State Housing Authority may also make construction loans, grants, noninterest-bearing loans, deferred payment loans, unsecured loans and other similar types of loans. Any mortgage loan made under this paragraph does not pledge the faith and credit of the State. Any bonds issued by the Maine State Housing Authority to finance mortgage loans authorized by this paragraph are subject to the limitations of sections 4905 and 4907; [PL 1993, c. 175, §5 (AMD).]

M. [PL 2017, c. 234, §12 (RP).]

N. With respect to any bonds that the Maine State Housing Authority is authorized to issue in accordance with the limitations and restrictions of this chapter, covenant and consent that the interest on the bonds will be 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. The powers conferred by this paragraph are not subject to any limitations or restrictions of any law that may limit the Maine State Housing Authority's power to so covenant and consent.

(1) Notwithstanding any other provision of this chapter, proceeds of bonds issued under this subsection may be used for persons other than persons of low income.

(2) The income on any bonds issued by the Maine State Housing Authority must be included in gross income under the Maine Income Tax Law if the income on those bonds is includable in the gross income of the holders of the bonds under the United States Internal Revenue Code of 1986, or any subsequent corresponding revenue law of the United States; [PL 2017, c. 288, Pt. B, §4 (AMD).]

O. Issue or cause to be issued certificates or other instruments evidencing the holder's fractional undivided interest in a pool of mortgage loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article 8-A, the certificates or instruments are deemed negotiable instruments within the meaning of and for all the purposes of Title 11, article 8-A, subject only to any registration requirements that the Maine State Housing Authority may establish; [PL 2017, c. 234, §13 (AMD).]

P. 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 corporations organized and operated under Title 13-B; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Q. Modify or waive the requirements of section 4902, subsections 1 and 2, and section 4903; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

R. Guarantee or ensure the timely payment in whole or part of principal on, premium on or interest of any bond or of any instrument or security identified in paragraph I or O; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

S. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral, administer or otherwise deal in, acquire or transfer, contract for benefits to recipients on behalf of the Federal Government or otherwise and do those things necessary to issue or cause to be issued federal mortgage credit certificates as authorized and created by the Federal Tax Reform Act of 1984, Public Law 98-369, Section 612(a); [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 581, §7 (AMD).]

T. Approve or disapprove, in accordance with rules adopted under the Maine Administrative Procedure Act, Title 5, chapter 375, a project that is multi-family or single-family residential property, when authorized or required by Title 10, chapter 110, subchapter IV; [PL 1991, c. 528, Pt. E, §35 (AMD); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. E, §35 (AMD).]

U. Consult with the Statewide Homeless Council, established pursuant to Title 30-A, section 5046, with respect to the implementation of housing programs to make the best use of resources and make the greatest impact on the affordable housing crisis; [PL 2005, c. 380, Pt. B, §3 (AMD).]

V. Administer energy conservation programs; [PL 1991, c. 9, Pt. I, §7 (NEW); PL 1991, c. 9, Pt. I, §8 (AFF).]

W. Pursuant to the purpose of the Act to provide housing assistance to persons of low income and in accordance with rules adopted under the Maine Administrative Procedure Act, operate programs to provide energy conservation and fuel assistance on behalf of persons of low income in connection with single-family or multi-unit residential housing and accept, obtain, distribute and administer federal and state funds, including block grants, for energy conservation and fuel assistance for the purpose of operating those programs; [PL 2017, c. 234, §14 (AMD).]

X. Advise the Governor and other officials of State Government on matters relating to energy conservation; [PL 2005, c. 261, §1 (AMD).]

Y. [PL 2017, c. 234, §15 (RP).]

Z. Condition approval of funding of a housing project upon an applicant's compliance with municipal health, safety and sanitation standards. The Maine State Housing Authority may condition approval of funding for a housing project upon a municipality's representation that the applicant, an affiliate of the applicant or any owner controlled by the applicant has no record of a material municipal code violation of health, safety or sanitation standards; [PL 2007, c. 326, §1 (AMD).]

AA. Certify transfers of multifamily affordable housing property that qualify for the deduction under Title 36, section 5122, subsection 2, paragraph Z or Title 36, section 5200-A, subsection 2, paragraph Q. The affordability restrictions that apply under this paragraph must be contained in a declaration signed by the transferee and recorded in the appropriate registry of deeds at the time of the sale or transfer.

(1) For the purposes of this paragraph, "multifamily affordable housing property" means a decent, safe and sanitary dwelling, apartment building or other living accommodation that includes at least 6 units, that meets at least one of the following affordability restrictions and for which those affordability restrictions, as applicable, expire in 10 years or less from the date of the sale or transfer of the property:

(a) At least 20% of the units have restricted rents affordable to households earning no more than 80% of the area median income as determined by the United States Department of Housing and Urban Development;

(b) The property is assisted by the United States Department of Housing and Urban Development, the United States Department of Agriculture or the Maine State Housing Authority; or

(c) The property qualifies for low-income housing credits under the United States Internal Revenue Code of 1986, Section 42.

(2) For the purposes of this paragraph, property does not qualify as multifamily affordable housing property unless:

(a) The transferee agrees to maintain the property as multifamily affordable housing property for an additional 30 years from the scheduled expiration;

(b) If the existing federal, state or other assistance is not available to maintain the property as multifamily affordable housing property, the transferee agrees to ensure that 1/2 of the units are affordable to persons at 60% of the area median income as determined by the United States Department of Housing and Urban Development for 30 years from the expiration of the then-existing affordability restrictions; or

(c) The transferee agrees to an alternative affordability agreement approved by the Maine State Housing Authority; [PL 2007, c. 645, §1 (AMD).]

BB. Make a loan, or contract with a financial institution to make a loan on behalf of the Maine State Housing Authority, to pay off an existing loan or to pay amounts past due on an existing loan on an owner-occupied single-family residence to assist a homeowner who is in default of the existing loan or in danger of losing the residence through foreclosure. Prior to receiving a loan under this paragraph, a homeowner must receive counseling with a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, a housing financing agency of this State or the regulatory agency that has jurisdiction over the creditor; [PL 2009, c. 361, §2 (AMD); PL 2009, c. 361, §37 (AFF).]

CC. Encourage and provide incentives to individuals and entities that conserve energy; support and participate, with resources derived from sources except the conservation program fund under Title 35-A, section 10110, subsection 7, in markets that reward energy conservation and use the proceeds from this participation to support affordable housing programs under its jurisdiction; and create and administer programs that encourage individuals and entities to conserve energy; [PL 2017, c. 234, §16 (AMD).]

DD. Certify affordable housing projects for the purpose of the income tax credit increase under Title 36, section 5219-BB, subsection 3; administer and enforce the affordability requirements set forth in this paragraph; and perform other functions described in this paragraph and necessary to the powers and duties described in this paragraph.

(1) For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 60% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.

(b) "Affordable housing project" means a project in which:

(i) At least 50% of the aggregate square feet of the completed project is housing of which at least 50% of the aggregate square feet of the completed housing creates new affordable housing; or

(ii) At least 33% of the aggregate square feet of the completed project creates new affordable housing.

(2) An affordable housing project for which the owner of the property received the income tax credit increase under Title 36, section 5219-BB, subsection 3 must remain an affordable housing project for 30 years from the date the affordable housing project is placed in service. If the property does not remain an affordable housing project for 30 years from the date the affordable housing project is placed in service, the owner of the property shall pay to the Maine State Housing Authority for application to the Housing Opportunities for Maine Fund established under section 4853 an amount equal to the income tax credit increase allowed under Title 36, section 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum from the date the property is placed in service until the date of payment of all amounts due. The affordability requirements and the repayment obligation in this subparagraph must be set forth in a restrictive covenant executed by the owner of the property and the affordable housing project for the benefit of and enforceable by the Maine State Housing Authority and recorded in the appropriate registry of deeds before the owner of the property claims the income tax credit increase under Title 36, section 5219-BB, subsection 3.

(3) If the repayment obligation in subparagraph (2) is not fully satisfied after written notice is sent by certified mail or registered mail to the owner of the property at the owner's last known

address, the Maine State Housing Authority may file a notice of lien in the registry of deeds of the county in which the real property subject to the lien is located. The notice of lien must specify the amount and interest due, the name and last known address of the owner, a description of the property subject to the lien and the Maine State Housing Authority's address and the name and address of its attorney, if any. The Maine State Housing Authority shall send a copy of the notice of lien filed in the registry by certified mail or registered mail to the owner of the property at the owner's last known address and to any person who has a security interest, mortgage, lien, encumbrance or other interest in the property that is properly recorded in the registry of deeds in which the property is located. The lien arises and becomes perfected at the time the notice is filed in the appropriate registry of deeds in accordance with this subparagraph. The lien constitutes a lien on all property with respect to which the owner receives the income tax credit increase under Title 36, section 5219-BB, subsection 3 and the proceeds of any disposition of the property that occurs after notice to the owner of the repayment obligation. The lien is prior to any mortgage and security interest, lien, restrictive covenant or other encumbrance recorded, filed or otherwise perfected after the notice of lien is filed in the appropriate registry of deeds. The lien may be enforced by a turnover or sale order in accordance with Title 14, section 3131 or any other manner in which a judgment lien may be enforced under the law. The lien must be in the amount of the income tax credit increase allowed under Title 36, section 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum from the date the property is placed in service until the date of payment of all amounts due. Upon receipt of payment of all amounts due under the lien, the Maine State Housing Authority shall execute a discharge lien for filing in the registry or offices in which the notice of lien was filed.

(4) Annually by every August 1st until and including August 1, 2025, the Maine State Housing Authority shall review the report issued pursuant to Title 27, section 511, subsection 5, paragraph A to determine the percentage of the total aggregate square feet of completed projects that constitutes new affordable housing, rehabilitated and developed using:

(a) Either of the income tax credits under Title 36, section 5219-BB, subsection 2; and

(b) The income tax credit increase under Title 36, section 5219-BB, subsection 3.

If the total aggregate square feet of new affordable housing does not equal or exceed 30% of the total aggregate square feet of rehabilitated and developed completed projects eligible for a credit under Title 36, section 5219-BB, the Maine State Housing Authority and Maine Historic Preservation Commission shall notify the State Tax Assessor of this fact; [PL 2019, c. 659, Pt. J, §1 (AMD).]

EE. Refinance a single-family mortgage loan held by the Maine State Housing Authority for a homeowner whose income at the time of refinancing is no greater than the income limits for qualified first-time homebuyers established under 26 United States Code, Section 143, or an existing loan on any owner-occupied single-family residence for purposes of lowering mortgage payments or making home improvements for persons of low income; [PL 2019, c. 555, §1 (AMD).]

FF. Provide grants to eligible homeowners who are served by private well water that shows evidence of high levels of arsenic contamination. For purposes of this paragraph, "homeowner" includes an individual who occupies a single-family dwelling that is located on land that is owned by a member of that individual's immediate family and "immediate family" means a spouse, parent, child, sibling, stepchild, stepparent and grandparent; and [PL 2019, c. 555, §2 (AMD).]

GG. In accordance with the credit for affordable housing established in Title 36, section 5219-WW and in accordance with rules adopted under the Maine Administrative Procedure Act:

(1) Allocate the credit;

(2) Administer and enforce the requirements of the credit; and

(3) Perform other functions and duties necessary for the proper administration of the credit, including providing any necessary certifications and notices to taxpayers and to the Department of Administrative and Financial Services, Bureau of Revenue Services containing information required by the State Tax Assessor necessary for determining eligibility and the amount of the credit for each taxable year.

Rules adopted under this paragraph are routine technical rules. [PL 2019, c. 555, §3 (NEW).]
[PL 2019, c. 555, §§1-3 (AMD); PL 2019, c. 659, Pt. J, §1 (AMD).]

2. Restrictions. Notwithstanding any other provision of this chapter, the Maine State Housing Authority may not provide funds for, finance, purchase the mortgage on or otherwise assist in the construction or management of:

A. Any housing owned, sponsored or assisted by an institution of higher education in the State; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any housing, the mortgage on which is insured by any federal or state program of mortgage insurance, the primary purpose of which is to assist student housing; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any nursing home or related institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817, except intermediate care facilities for persons with intellectual disabilities and persons with related conditions or the construction, substantial rehabilitation or improvement of homeless shelter facilities that may be related to an institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817. [PL 2011, c. 542, Pt. A, §55 (AMD).]
[PL 2011, c. 542, Pt. A, §55 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§2,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 581, §§7,8 (AMD). PL 1991, c. 9, §I7 (AMD). PL 1991, c. 9, §I8 (AFF). PL 1991, c. 511, §B1 (AMD). PL 1991, c. 528, §§E35,36 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §§E35,36 (AMD). PL 1991, c. 610, §2 (AMD). PL 1991, c. 622, §J20 (AMD). PL 1991, c. 622, §J25 (AFF). PL 1991, c. 780, §TT1 (AMD). PL 1993, c. 175, §5 (AMD). PL 1993, c. 359, §B2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2003, c. 704, §§4-6 (AMD). PL 2005, c. 261, §§1-3 (AMD). PL 2005, c. 380, §B3 (AMD). PL 2005, c. 644, §§1-3 (AMD). PL 2007, c. 240, Pt. RRRR, §4 (AMD). PL 2007, c. 326, §§1-3 (AMD). PL 2007, c. 466, Pt. A, §50 (AMD). PL 2007, c. 562, §5 (AMD). PL 2007, c. 645, §§1-3 (AMD). RR 2009, c. 2, §85 (COR). PL 2009, c. 361, §§2-4 (AMD). PL 2009, c. 361, §37 (AFF). PL 2011, c. 453, §2 (AMD). PL 2011, c. 542, Pt. A, §55 (AMD). PL 2011, c. 679, §29 (AMD). RR 2017, c. 1, §24 (COR). PL 2017, c. 234, §§10-18 (AMD). PL 2017, c. 288, Pt. B, §4 (AMD). PL 2019, c. 555, §§1-3 (AMD). PL 2019, c. 659, Pt. J, §1 (AMD).

§4723. Appointment, qualifications, tenure and meetings of commissioners and directors

1. Municipality. The following provisions apply to municipal housing authorities.

A. Each authority shall appoint 7 commissioners. No commissioner may be appointed until the authority is authorized to function as provided in section 4721. In the case of a city having a mayor-council form of government, the mayor shall appoint the commissioners with the advice and consent of the council. In the case of a city having a manager-council form of government, the

council shall appoint the commissioners. In the case of a town, the municipal officers shall appoint the commissioners.

Any person who resides within the authority's boundaries or area, and who is otherwise eligible for appointment under this chapter, may be appointed as a commissioner of the authority. This section does not prevent a commissioner from concurrently serving as a commissioner on a renewal authority established by any city with a population of 20,000 or more.

The commissioners who are initially appointed under this section serve for terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment. Thereafter, the commissioners are appointed for terms of 5 years, except that all vacancies must be filled for the unexpired terms. All subsequent appointments and appointments to fill a vacancy must be made as provided in this subsection.

(1) In a municipality with housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development, at least 2 of the commissioners must be residents of that housing. When tenant associations exist in the housing, the appointing authority shall give priority consideration to nominations made by the associations. The first commissioner appointed to an authority, who is a resident of subsidized or assisted housing, serves for a 4-year term from the date of appointment. Thereafter, the commissioner must be appointed as provided in this subsection.

(2) A certificate of the appointment or reappointment of any commissioner must be filed with the authority. This certificate is conclusive evidence of the due and proper appointment of the commissioner. [PL 1993, c. 218, §1 (AMD).]

B. A commissioner shall receive no compensation for services but is entitled to any necessary expenses, including travel expenses, incurred in the discharge of duties. Each commissioner shall hold office until a successor has been appointed and has qualified. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Each authority shall elect a chair and vice-chair from among the commissioners. An authority may employ a secretary, who is executive director, and technical experts and any other officers, agents and employees that it requires and shall determine their qualifications, duties and compensation. An authority may employ its own counsel and legal staff. It may delegate to its agents or employees any powers or duties that it considers proper. [PL 2011, c. 560, §1 (AMD).]

D. The powers of an authority are vested in its commissioners. Meetings of the commissioners may be held anywhere within the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Four commissioners constitute a quorum of an authority for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. The authority may take action upon the vote of a majority of the commissioners present, unless its bylaws require a larger number. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2011, c. 560, §1 (AMD).]

2. State. The following provisions apply to the state housing authority.

A. [PL 1993, c. 359, Pt. D, §2 (RP).]

B. The Maine State Housing Authority, as authorized by Title 5, chapter 379, must have 10 commissioners, 8 of whom must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development and to confirmation by the Legislature. The 9th commissioner is the Treasurer of State who serves as an ex officio voting member. The Treasurer of State may designate the Deputy Treasurer of State to

serve in place of the Treasurer of State. The 10th commissioner is the director of the Maine State Housing Authority who serves as an ex officio nonvoting member. At least 3 gubernatorial appointments must include a representative of bankers, a representative of elderly people and a resident of housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development or of the Maine State Housing Authority. In appointing the resident, the Governor shall give priority consideration to nominations that may be made by tenant associations established in the State. Of the 5 remaining gubernatorial appointments, the Governor shall give priority to a representative involved in the housing business and a representative of people with disabilities. The powers of the Maine State Housing Authority are vested in the commissioners. The commissioners may delegate such powers and duties to the director of the Maine State Housing Authority as they determine appropriate.

The Governor shall appoint the chair of the commissioners from among the 8 gubernatorial appointments. The chair serves as a nonvoting member, except that the chair may vote only when the chair's vote will affect the result. The commissioners shall elect a vice-chair of the commissioners from among their number.

Following reasonable notice to each commissioner, 5 commissioners of the Maine State Housing Authority constitute a quorum for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the commissioners upon a vote of a majority of the commissioners present, unless otherwise specified in law or required by its bylaws.

The Maine State Housing Authority may meet by telephonic, video, electronic or other similar means of communication with less than a quorum assembled physically at the location of a public proceeding identified in the notice required by Title 1, section 406 only if:

(1) Each commissioner can hear all other commissioners, speak to all other commissioners and, to the extent reasonably practicable, see all other commissioners by videoconferencing or other similar means of communication during the public proceeding, and members of the public attending the public proceeding at the location identified in the notice required by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see all commissioners participating from other locations by videoconferencing or other similar means of communication;

(2) Each commissioner who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the commissioner is participating;

(3) A commissioner who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the commissioner's attendance is not reasonably practical. The reason that the commissioner's attendance is not reasonably practical must be stated in the minutes of the meeting; and

(4) Each commissioner who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the commissioner not physically present during the public proceeding if the transmission technology is available. Failure to comply with this subparagraph does not invalidate an action taken by the Maine State Housing Authority at the public proceeding. [PL 2015, c. 449, §3 (AMD).]

C. The Maine State Housing Authority must have a director, who must be a person qualified by training and experience to perform the duties of the office. The Governor shall appoint the director of the Maine State Housing Authority, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development, and to confirmation by the Legislature.

(1) The director is the chief administrative officer of the Maine State Housing Authority. The commissioners shall establish the rate and amount of compensation of the director. The commissioners are responsible for the performance review and termination of the director. Any decision to terminate the director must be made by an affirmative vote of at least 5 commissioners.

(3) The director of the Maine State Housing Authority shall supervise the administrative affairs and technical activities of the Maine State Housing Authority in accordance with the rules and policies established by the commissioners. The director of the Maine State Housing Authority may act in all personnel matters and may employ technical or legal experts and any other officers, agents and employees that the director requires, and shall determine their qualifications, duties and compensation. The director may delegate to the employees and agents any powers and duties that the director considers proper. [PL 2011, c. 560, §1 (AMD).]

D. Any person who, at the time of appointment, is a resident of the State, may serve as a commissioner, except that the director need not be a resident of the State before being appointed.

(1) Each commissioner, except for the director and the Treasurer of State, serves a 4-year term beginning with the expiration of the term of that person's predecessor, except that a vacancy occurring in a position before the normal expiration of the appointment must be filled as soon as practicable by a new gubernatorial appointee who serves for the remainder of the unexpired term. Each commissioner continues to hold office after the term expires until a successor is appointed. In any instance in which more than one commissioner is serving beyond the original term, any new appointee is deemed to succeed the commissioner whose term expired first.

(2) The Secretary of State shall prepare a certificate evidencing the appointment of each commissioner. An original of this certificate must be provided to the appointee. One authenticated copy must be retained by the Maine State Housing Authority and one by the Secretary of State. An authenticated certificate of appointment is conclusive evidence of the appointment. [PL 1993, c. 359, Pt. D, §3 (AMD).]

E. The director is a full-time employee of the authority, but may receive fees or honoraria for services provided to others not in conflict with full-time duties and not performed during time for which the director is receiving compensation from the Maine State Housing Authority. In addition to any authorized compensation, the director is entitled to any employee benefits that are available to other employees of the Maine State Housing Authority, including, but not limited to, authority contributions to any retirement plan, insurance plan, deferred compensation plan or other similar benefits. Each commissioner is entitled to compensation according to the provisions of Title 5, chapter 379, except notwithstanding Title 5, section 12003-A, subsection 4, authorized expenses incurred by a state employee, or designee of that state employee, serving in an ex officio capacity as a commissioner must be paid from the budget of the authority. [PL 2011, c. 560, §1 (AMD).]

[PL 2015, c. 449, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 574, §2 (AMD). PL 1993, c. 218, §1 (AMD). PL 1993, c. 359, §§D2,3 (AMD). PL 2007, c. 101, §1 (AMD). PL 2011, c. 560, §1 (AMD). PL 2015, c. 449, §3 (AMD).

§4724. Conflict of interest

The provisions of this section are in addition to the limitations of Title 5, section 18. Any violation of this section is a Class E crime. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Present employee or commissioner; participation in decision. No employee or commissioner of the Maine State Housing Authority may participate in any decision on any contract or project entered into by the Maine State Housing Authority if that employee or commissioner has any interest, direct or indirect, in any firm, corporation, partnership, or association which may be party to the contract or financially interested in any such project.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Acquisition of interest in project; accepting employment. During tenure and within one year of service, no employee or commissioner of any authority may voluntarily acquire any interest, direct or indirect, in any contract, project or property included or planned to be included in any project of that housing authority over which the employee or commissioner has exercised responsibility, control or decisions during tenure with the authority, and no employee or commissioner of any authority, if employment is accepted with any person who has an interest in any contract, property or project included or planned to be included in any project of that authority, may work directly on that contract, project or property for that person if the employee or commissioner has exercised responsibility, control or decisions over that contract, project or property.

A. This subsection does not prohibit a manufactured housing inspector employed by the Maine State Housing Authority from accepting employment by a person to work on manufactured housing that is manufactured after the date employment with the Maine State Housing Authority has terminated. [PL 2017, c. 234, §19 (AMD).]

[PL 2017, c. 234, §19 (AMD).]

3. Limitation on application of section. This section does not apply to:

A. The acquisition of any interest in notes or bonds of the Maine State Housing Authority issued in connection with any project or otherwise; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The execution of agreements by banking institutions for the deposit or handling of funds in connection with any project or to act as trustees under any trust indenture; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Utility services, the rates for which are fixed or controlled by a governmental agency. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 476 (AMD). PL 2017, c. 234, §19 (AMD).

§4725. Removal of commissioners

A commissioner may be removed from office for inefficiency, neglect of duty or misconduct in office after hearing by the legislative body of a city, the selectmen of a town, or, in the case of the

Maine State Housing Authority, the Governor. The commissioner must be given a copy of the charges at least 10 days before the hearing and must be given an opportunity to be heard in person or to be represented by counsel. If a commissioner is removed, a record of the proceedings, together with the charges and the findings on the charges, must be filed in the office of the clerk or, in the case of the Maine State Housing Authority, in the office of the Secretary of State. This section does not apply to the director of the Maine State Housing Authority, who may be removed by the commissioners pursuant to section 4723, subsection 2, paragraph C. [PL 2011, c. 560, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2011, c. 560, §2 (AMD).

SUBCHAPTER 3

POWERS AND DUTIES

§4741. Powers generally

An authority constitutes a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary to carry out and effectuate the purposes and provisions of this chapter, but not the power to levy and collect taxes or special assessments, including the following powers in addition to others granted: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. General. To sue; to be sued on its written contracts or in accordance with the Maine Tort Claims Act, the Maine Administrative Procedure Act, Title 5, chapter 375, in the case of the Maine State Housing Authority, the Maine Rules of Civil Procedure, Rule 80B, or any successor rule of the Maine Rules of Civil Procedure in the case of a municipal authority or Title 1, section 409; to have a seal and alter it at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the authority's powers; and to make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this chapter, to carry into effect the powers and purposes of the authority;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Housing projects. Within its area of operation: To prepare, carry out, acquire, lease, manage, maintain or operate housing projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any housing project or any part of a housing project. An authority may perform any of these listed functions singly or in combination with other functions with respect to any individual housing project, and may perform these functions full-time, part-time or in combination with other private persons, corporations or government agencies or other appropriate body;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Housing needs. To undertake and carry out studies and analyses of the housing needs within its area of operation and of the meeting of those needs, including data with respect to population and family groups, and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages and other factors affecting the local housing needs and the meeting of those needs, and to make the results of these studies and analyses available to the public and the building, housing and supply industries; and to engage in research and disseminate information on housing;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Contract for services, other uses; wages and hours of labor. To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants of a housing project; and, notwithstanding anything to the contrary in this chapter or in any other provision of law, to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal Government has attached to its financial aid of the project;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Leasing or renting; eminent domain; insurance. To lease or rent any dwellings, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations contained in this chapter, to establish and revise the rents or charges for those rentals; to own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest in real or personal property; to acquire, by the exercise of the power of eminent domain, any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest in real or personal property; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts of any bonds issued by an authority, including the power to pay premiums on any such insurance;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Investment of funds. To invest any funds held in reserves of sinking funds or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control, including, without limitation, shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States; to redeem its bonds at the redemption price established for the bonds or to purchase its bonds at less than that redemption price, all bonds so redeemed or purchased to be canceled;
[PL 1993, c. 651, §4 (AMD).]

7. Slum clearance. Within its area of operation: To determine where slum areas exist or where there is a shortage of safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas and the problem of providing dwelling accommodations for persons of low income; and to cooperate with the municipality, the county, the State or any political subdivision of the State in action taken in connection with such problems;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Investigations and examinations. Acting through one or more commissioners or other persons designated by the authority: To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer

oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the State or unable to attend before the authority or excused from attendance; to make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or similar conditions or of demolishing unsafe or insanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Powers granted. To exercise all or any part or combination of powers granted;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Coordination with municipal officers. The commissioners of a municipal authority or the director of the Maine State Housing Authority shall provide the municipal officers an opportunity to review and discuss proposed development projects prior to submitting the plans to the appropriate municipal officer or agency;
[PL 2017, c. 234, §20 (AMD).]

11. Mortgage credits. The Maine State Housing Authority may acquire from banks, life insurance companies, savings and loan associations, pension or retirement funds, any fiduciaries, the Federal Government and other financial institutions, persons or governmental or business entities mortgage loans and notes anywhere in the State and may sell mortgages and notes to insurance companies, other financial institutions, persons or governmental or business entities and the Federal Government or any fiduciaries or pension or retirement funds;
[PL 2017, c. 234, §20 (AMD).]

12. Mortgage assistance payments. Pursuant to the purposes of this Act to provide housing for persons of low income, the Maine State Housing Authority may make payments and binding commitments, subject to the authority's receipt of sufficient funds to honor these commitments from periodic appropriations from appropriate sources, to continue these payments if necessary over the life of the mortgage to mortgagors or to mortgagees on behalf of low-income persons to reduce interest costs on market rate mortgages to as low as 1%.

A. No commitment made by the authority under this subsection may be construed to commit the faith and credit of this State. [RR 2015, c. 2, §19 (COR).]

B. Persons benefiting from these mortgage assistance payments shall, according to guidelines to be included in the mortgage agreements, be required to pay a larger interest payment as their ability to pay increases; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[RR 2015, c. 2, §19 (COR).]

13. Allocation of federal ceilings. By rulemaking under Title 5, chapter 375, subchapter II, the Maine State Housing Authority may establish a process that is different from the federal formula for allocating that portion of the ceiling on the issuance of certain tax-exempt bonds established by the United States Code, Title 26, which has been allocated to the Maine State Housing Authority under Title 10, section 363, and may also limit the types of projects that are eligible to receive allocations or carryforward designations from the Maine State Housing Authority;
[PL 1991, c. 622, Pt. J, §21 (AMD); PL 1991, c. 622, Pt. J, §25 (AFF).]

14. State housing credit agency. The Maine State Housing Authority is designated the housing credit agency for the State and may receive and allocate, according to a process established by rulemaking pursuant to Title 5, chapter 375, subchapter II, the annual state housing credit ceiling for the low-income housing credit established by the United States Code, Title 26;

[PL 1991, c. 629, §1 (AMD).]

15. State weatherization, conservation and fuel assistance agency. The Maine State Housing Authority is designated the weatherization, energy conservation and fuel assistance agency for the State and, in accordance with Title 35-A, section 10104, subsection 8, may apply for, receive, distribute and administer federal funds on behalf of the State for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services in accordance with rules adopted under the Maine Administrative Procedure Act;
[PL 2009, c. 372, Pt. B, §2 (AMD).]

16. Certification of bonds. The director of the Maine State Housing Authority is the State's designee to certify to the United States Secretary of the Treasury that housing-related bonds issued in the State satisfy the applicable ceiling requirements of the federal Internal Revenue Code;
[PL 1993, c. 175, §6 (AMD).]

17. Comprehensive housing affordability strategy coordinator. The Maine State Housing Authority is designated the comprehensive housing affordability strategy coordinator for the State and has the power to prepare and submit on behalf of the State the annual comprehensive housing affordability strategy called for in the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, as amended, and to undertake all monitoring and certification procedures required under that law. The Maine State Housing Authority shall represent the State in carrying out the HOME Investment Partnerships Program created by the Cranston-Gonzalez National Affordable Housing Act, as amended;
[PL 2017, c. 234, §21 (AMD).]

18. State designee for homeless programs. The Maine State Housing Authority is designated the coordinating agency for the State for programs dealing with homeless persons and may apply for, receive, distribute and administer federal, state and other funds on behalf of the State for homeless programs including, without limitation, the Emergency Community Services Homeless Grant Program and the programs authorized pursuant to the federal Stewart B. McKinney Homeless Assistance Act, Public Law 100-77, (1987), as amended; and
[PL 2015, c. 494, Pt. B, §3 (AMD).]

19. State designee for National Housing Trust Fund. The Maine State Housing Authority is designated as the entity to receive and allocate funds from the National Housing Trust Fund established by the federal Housing and Economic Recovery Act of 2008.
[PL 2015, c. 494, Pt. B, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 622, §§J21,22 (AMD). PL 1991, c. 622, §J25 (AFF). PL 1991, c. 629, §§1-3 (AMD). PL 1991, c. 871, §§2-4 (AMD). PL 1993, c. 175, §§6-8 (AMD). PL 1993, c. 651, §4 (AMD). PL 2007, c. 562, §6 (AMD). PL 2009, c. 372, Pt. B, §2 (AMD). RR 2015, c. 2, §19 (COR). PL 2015, c. 494, Pt. B, §§2-4 (AMD). PL 2017, c. 234, §§20, 21 (AMD).

§4742. Operation of housing not for profit

It is declared to be the policy of this State that each authority shall manage and operate its housing projects in an efficient manner to enable it to fix the rentals or payments for dwelling accommodations at low rates consistent with its providing decent, safe and sanitary dwelling accommodations for persons of low income. No authority may construct or operate any housing project for profit, or as a source of revenue to the municipality or the State. To this end, an authority shall fix the rentals or payments for dwellings in its projects at no higher rates than it finds necessary to produce revenues

which, together with all other available money, revenues, income and receipts of the authority from whatever sources derived, will be sufficient: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Bond principal and interest. To pay, as the sums become due, the principal and interest on the bonds of the authority;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Reserves. To create and maintain such reserves as are required to ensure the payment of principal and interest as it becomes due on its bonds;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Cost and operating projects. To meet the cost of and to provide for maintaining and operating the projects, including necessary reserves for that purpose and the cost of any insurance, and the administrative expenses of the authority;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Payments in lieu of taxes. To make such payments in lieu of taxes as it determines are consistent with the maintenance of the low-rent character of projects;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Property declared to be public property. The property of an authority is declared to be public property used for essential public and governmental purposes. This property is exempt from all taxes and from betterments and special assessments of the municipality, the county, the State or any political subdivision of the State. In lieu of taxes on its property, an authority may agree to make such payments to the municipality, the county, the State or any political subdivision of the State as it finds consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4743. Housing rentals and tenant admissions; veteran preference

In the operation or management of housing projects, an authority shall at all times observe the following duties with respect to rentals and tenant admissions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Rent to persons of low income. It shall rent or lease at least 20% of the dwelling units in any project only to persons or families of low income and at rentals within the financial reach of persons or families of low income.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Number of rooms. It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it considers necessary to provide safe and sanitary accommodations to the proposed occupants of the rooms without overcrowding.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Preferences. In the selection of tenants for housing projects, as among low-income families which are eligible applicants for occupancy in dwellings of given sizes and at specified rents, a housing authority shall extend the following preferences:

A. First, to families which are to be displaced by any low-rent housing project or by any public slum-clearance or redevelopment project initiated after January 1, 1947, or which were so displaced within 3 years before applying to the public housing agency for admission to any low-rent housing. Among these families:

(1) First preference shall be given to families of disabled veterans whose disabilities have been determined by the United States Veterans Administration to be service-connected;

(2) Second preference shall be given to families of deceased veterans and servicemen whose deaths have been determined by the United States Veterans Administration to be service-connected;

(3) Third preference shall be given to families of other veterans and servicemen; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Second, to families of other veterans and servicemen. Among these families:

(1) First preference shall be given to families of disabled veterans whose disabilities have been determined by the United States Veterans Administration to be service-connected; and

(2) Second preference shall be given to families of deceased veterans and servicemen whose deaths have been determined by the United States Veterans Administration to be service-connected. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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

(1) The term "veteran" means a person who has served in the active military or naval service of the United States at any time on or after April 6, 1917 and before November 11, 1918, or at any time on or after September 16, 1940 and before July 26, 1947, or at any time on or after June 27, 1950 and before February 1, 1955, or at any time on or after August 5, 1964 and before May 7, 1975, or at any time on or after August 7, 1990 and before April 11, 1991, and who has been discharged or released from the service under conditions other than dishonorable.

(2) The term "serviceman" means a person in the active military or naval service of the United States who has served in that service on or after April 6, 1917 and before November 11, 1918, or at any time on or after September 16, 1940 and before July 26, 1947, or at any time on or after June 27, 1950 and before February 1, 1955, or at any time on or after August 5, 1964 and before May 7, 1975, or at any time on or after August 7, 1990 and before April 11, 1991.

Notwithstanding any provisions of this section, an authority may agree to conditions as to tenant eligibility or preference required by the Federal Government under federal law in any contract for financial assistance with the authority.

Nothing in this section or section 4742 may be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a project or cause the appointment of a receiver of the project, free from all the restrictions imposed by this section or section 4742. [PL 1993, c. 427, §4 (AMD).]

[PL 1993, c. 427, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 427, §4 (AMD).

§4744. Dwellings for disaster victims and defense workers

Notwithstanding the provisions of this chapter or any other law relating to rentals of, preferences or eligibility for admission to, or occupancy in housing projects, during the period when an authority determines that there is an acute need in its area of operation for housing to ensure the availability of dwellings for persons engaged in national defense activities or for victims of a major disaster, an authority may undertake the development and administration of housing projects for the Federal Government, and dwellings in any housing project under the jurisdiction of the authority may be made available to persons engaged in national defense activities or to victims of a major disaster. An authority may contract with the Federal Government or the State or a state public body for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of the housing free of charge to needy disaster victims during any period covered by a determination of acute need by the authority as provided. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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

A. The term "major disaster" means any flood, drought, fire, hurricane, earthquake, storm or other catastrophe which, in the determination of the governing body, is of sufficient severity and magnitude to warrant the use of available resources of the Federal Government, State Government and local governments to alleviate the damage, hardship or suffering caused by the disaster. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The term "persons engaged in national defense activities" means persons in the Armed Forces of the United States, employees of the Department of Defense and workers engaged or to be engaged in activities connected with national defense. The term includes the families of the persons, employees and workers who reside with them. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4745. Cooperation between authorities

Any 2 or more authorities may join or cooperate in the exercise of any or all of the powers conferred for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of the authorities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4746. Eminent domain

An authority may acquire by the exercise of eminent domain any real property which it considers necessary for its purposes under this chapter. The authority must first adopt a resolution declaring that the acquisition of the real property described in the resolution is necessary for those purposes. An authority shall exercise the power of eminent domain in the manner provided in section 5108, but references in section 5108 to an urban renewal project and a renewal project area and the like do not apply. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4747. Cooperation in undertaking projects

Any state public body, upon such terms, with or without consideration, as it may determine may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Interest in property; rights and privileges. Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges in property to a housing authority;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Facilities furnished. Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with any project;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Roads, streets, ways. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places, in or adjacent to any project;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Plans and zoning. Plan or replan, zone or rezone any part of the state public body; make exceptions from building regulations and ordinances; any city may change its map;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Services. Cause services to be furnished to the housing authority of the character which the state public body is otherwise empowered to furnish;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Agreements as to buildings. Enter into agreements with respect to the exercise by the state public body of its powers relating to the repair, closing or demolition of unsafe, insanitary or unfit buildings;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Sums in lieu of taxes. Agree with the housing authority with respect to the housing authority's payment of such sums in lieu of taxes as the authority determines to be consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this chapter;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Aid and cooperation. Do anything necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such projects; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Agreements concerning action of the state public body. Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing authority concerning action to be taken by the state public body under any of the powers granted by this chapter. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized to engage in the development or administration of low-rent housing or slum-clearance projects, including the Federal Government, the provisions of these agreements shall inure to the benefit of and may be enforced by the public body or governmental agency. A state public body may make any sale, conveyance, lease or agreement provided for in this section without public notice, advertisement or public bidding, notwithstanding any other laws to the contrary.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 3-A

AFFORDABLE HOUSING PROGRAM

§4751. Purpose

The State is experiencing severe shortages of affordable housing in various parts of the State. The affordable housing shortage is also contributing to an increasing class of working poor people and creating severe hardships for a significant number of the State's citizens. Municipalities feel the impact of the affordable housing shortage and find it difficult to deal with the problem with their inadequate resources. By working together, sharing resources and using more comprehensive measures, the State and its municipalities can more effectively address the shortage of affordable housing and the many other problems stemming from this housing shortage. [PL 1989, c. 48, §§3, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§3,31 (NEW).

§4752. Housing component of comprehensive plans

Any comprehensive plan developed under chapter 187, subchapter II, shall provide for the development of affordable housing for low-income and moderate-income households. A municipality may cooperate with neighboring municipalities to develop a regional comprehensive plan in lieu of a municipal plan. Any comprehensive plan developed under chapter 187, subchapter II, shall include municipal or regional strategies to effectively reduce the cost of housing or provide for the construction of affordable housing, including zoning measures, use of municipally owned land and other similar measures. [PL 1989, c. 48, §§3, 31 (NEW).]

1. Provide technical assistance and information. The Maine State Housing Authority and any municipal housing authority shall provide technical assistance and information to municipalities requesting assistance in the development of affordable housing provisions for comprehensive plans to include the formulation of measures to effectively address the shortage of affordable housing for low-income and moderate-income households.
[PL 1989, c. 48, §§3, 31 (NEW).]

2. Land and buildings of political subdivisions.

[PL 2017, c. 234, §22 (RP).]

SECTION HISTORY

PL 1989, c. 48, §§3, 31 (NEW). PL 2011, c. 691, Pt. B, §27 (AMD). PL 2017, c. 234, §22 (AMD).

§4753. Coordination of resources and programs

The Maine State Housing Authority, municipal housing authorities, municipalities and the Department of Economic and Community Development shall cooperate in the coordination of resources and programs and the development of housing for low-income and moderate-income households. [PL 1989, c. 48, §§3, 31 (NEW).]

1. Matching of resources. The Maine State Housing Authority may match the resources provided by municipalities according to ratios established by the Maine State Housing Authority by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

A. Municipal resources may consist of land, buildings, equipment, personnel, zoning provisions, money and any other resources considered by the Maine State Housing Authority to effectively help to provide affordable housing to low-income and moderate-income households. [PL 1989, c. 48, §§3, 31 (NEW).]

B. Any municipality and the Maine State Housing Authority may use resources provided by the private sector, any private nonprofit organization or any other public sector organization for the purpose established in this subchapter. [PL 1989, c. 48, §§3, 31 (NEW).]

C. Municipalities and municipal housing authorities may require reasonable reservations or set-asides of units created in projects to which they have contributed significant resources to serve the residents or members of the work force of their particular municipalities. [PL 1989, c. 581, §9 (NEW).]

[PL 1989, c. 48, §§3, 31 (NEW); PL 1989, c. 581, §9 (AMD).]

2. Assessment of housing stock.

[PL 2017, c. 234, §23 (RP).]

3. Universal application and waiting list. The Maine State Housing Authority and municipal housing authorities shall establish a single, streamlined application for tenant-based rental assistance under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8 by which families may apply for housing assistance in any geographic area of the State and shall also establish a statewide, centralized waiting list for that tenant-based rental assistance. The Maine State Housing Authority and municipal housing authorities shall establish a method for individuals or families to submit applications and to update applications for rental assistance by electronic means.

The Maine State Housing Authority and the Department of Health and Human Services shall ensure that an application or an addendum to an application submitted pursuant to this subsection may also be used by individuals and families who choose to apply for the Bridging Rental Assistance Program established in Title 34-B, section 3011 and a federal shelter plus care program authorized by the federal McKinney-Vento Homeless Assistance Act, Public Law 100-77 (1987) as amended by the federal Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, Public Law 111-22, Division B (2009).

[RR 2017, c. 1, §25 (COR).]

SECTION HISTORY

PL 1989, c. 48, §§3,31 (NEW). PL 1989, c. 581, §9 (AMD). PL 1989, c. 914, §4 (AMD). PL 2015, c. 424, §1 (AMD). RR 2017, c. 1, §25 (COR). PL 2017, c. 234, §23 (AMD).

§4754. Purchase and acquire property; construct housing

The Maine State Housing Authority or any municipal housing authority may purchase or acquire property to preserve or provide affordable housing to low-income and moderate-income people and provide for the management and maintenance of this property. [PL 1989, c. 48, §§3, 31 (NEW).]

1. Construction. The Maine State Housing Authority or any municipal housing authority may construct or reconstruct housing for low-income and moderate-income households.
[PL 1989, c. 48, §§3, 31 (NEW).]

2. Rehabilitation. The Maine State Housing Authority or any municipal housing authority may rehabilitate buildings as a means of providing affordable housing to low-income and moderate-income households.
[PL 1989, c. 48, §§3, 31 (NEW).]

3. State-owned property. The Maine State Housing Authority may use surplus state-owned property pursuant to this subchapter and Title 5, section 1742, subsection 23 to achieve the purpose of this article.
[PL 2017, c. 234, §24 (AMD).]

4. Property. For the purpose of this subchapter, property includes land, buildings, structures and equipment.
[PL 1989, c. 48, §§3, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§3,31 (NEW). PL 2017, c. 234, §24 (AMD).

§4754-A. First option to purchase surplus lands

All state agencies shall offer the Maine State Housing Authority the opportunity to purchase or otherwise acquire any land and improvements on the land or any structures determined to be surplus before the property may be offered for sale or transfer to any other state agency, community or other buyer or transferee. Notice of availability must be provided in writing to the Director of the Maine State Housing Authority. [PL 1989, c. 914, §5 (NEW).]

1. Notification of interest. The Maine State Housing Authority shall advise the owner agency in writing of its interest in purchasing or otherwise acquiring the surplus land and any improvements on the land or surplus structures or of its decision not to purchase or otherwise acquire any such surplus property within 30 days of receipt of the notification by the Director of the Maine State Housing Authority.
[PL 1989, c. 914, §5 (NEW).]

2. Purchase price. If the Maine State Housing Authority offers to purchase the property, the purchase price must be determined as follows.

A. The current market value must be determined by an independent appraiser or by agreement between the Maine State Housing Authority and the owner agency. The Maine State Housing Authority and the owner agency then shall negotiate the ultimate purchase price in good faith in order to achieve the respective goals and mandates of the Maine State Housing Authority and the owner agency. [PL 1989, c. 914, §5 (NEW).]

B. The purchase price may not exceed the current market value of the property as determined in paragraph A. [PL 1989, c. 914, §5 (NEW).]

C. If title to the land or improvements carries a requirement that the property be sold at fair market value, then this requirement prevails over the terms of this subsection. [PL 1989, c. 914, §5 (NEW).]

[PL 1989, c. 914, §5 (NEW).]

3. Report. The Maine State Housing Authority shall report to the joint standing committee of the Legislature having jurisdiction over housing and economic development matters 90 days after the 2nd anniversary of the effective date of this section on state surplus land purchased under this section together with any recommendations for improvements.
[PL 1989, c. 914, §5 (NEW).]

If any land determined to be surplus is located in a community served by a local public housing authority, as defined in this Title, the Maine State Housing Authority shall offer the first option to purchase the parcel to the local public housing authority. The local public housing authority has 45 days to indicate in writing its desire to acquire the parcel. Other offers to purchase the parcel may not be considered until the 45-day period has passed. [PL 1989, c. 914, §5 (NEW).]

SECTION HISTORY

PL 1989, c. 914, §5 (NEW).

§4755. Provide property

The Maine State Housing Authority may provide surplus state property below market value pursuant to this subchapter and Title 5, section 1742, subsection 23 to any person, firm or organization that agrees to construct, reconstruct or rehabilitate affordable housing for low-income and moderate-income households and maintain this property for this purpose in a written contract with the Maine State Housing Authority. [PL 2017, c. 234, §25 (AMD).]

SECTION HISTORY

PL 1989, c. 48, §§3,31 (NEW). PL 2017, c. 234, §25 (AMD).

§4756. Rules

The Maine State Housing Authority shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this subchapter, including eligibility standards for financing under this subchapter. [PL 1989, c. 48, §§3, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§3,31 (NEW).

SUBCHAPTER 3-B

TEMPORARY HOUSING ASSISTANCE PROGRAM

§4761. Temporary Housing Assistance Fund

1. Creation. The Temporary Housing Assistance Fund is established under the jurisdiction of the Maine State Housing Authority. For the purposes of this subchapter, "state authority" means the Maine State Housing Authority, "fund" means the Temporary Housing Assistance Fund and "program" means the Temporary Housing Assistance Program.
[PL 1993, c. 175, §9 (NEW).]

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

A. All money appropriated for inclusion in the fund; [PL 1993, c. 175, §9 (NEW).]

B. Subject to any pledge, contract or other obligation, any money that the state authority receives in repayment of loans or advances from the fund; [PL 1993, c. 175, §9 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends or other income from investment of the fund; and [PL 1993, c. 175, §9 (NEW).]

D. Any other money, including federal money, deposited in the fund to implement the provisions of this subchapter. [PL 1993, c. 175, §9 (NEW).]

[PL 1993, c. 175, §9 (NEW).]

3. Application of fund. The state authority may apply money in the fund for purposes authorized by this subchapter. Money in the fund not needed currently for purposes of this subchapter may be deposited with the state authority to the credit of the fund or may be invested as provided by law. The following may be used to pay the administrative costs of the program:

A. No more than 10% of the money in the fund; [PL 1993, c. 175, §9 (NEW).]

B. Any earnings on money in the fund; and [PL 1993, c. 175, §9 (NEW).]

C. Any recoveries to the fund, including, but not limited to, repayments, recaptures of principal and recaptures of interest. [PL 1993, c. 175, §9 (NEW).]

[PL 1993, c. 175, §9 (NEW).]

4. Accounts within fund. The state authority may divide money in the fund into separate accounts determined necessary or convenient for carrying out this subchapter.

[PL 1993, c. 175, §9 (NEW).]

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

[PL 1993, c. 175, §9 (NEW).]

SECTION HISTORY

PL 1993, c. 175, §9 (NEW).

§4762. Temporary Housing Assistance Program

The Temporary Housing Assistance Program must provide assistance to persons of low income to enable them to become tenants of rental housing units in the State. [PL 1993, c. 175, §9 (NEW).]

1. Operation. The state authority shall administer the program either directly or through regional contract agents. The program may be operated in conjunction with other programs of the state authority to achieve the purpose of this subchapter.

[PL 1993, c. 175, §9 (NEW).]

2. Form and amount of assistance. Money in the fund may be used to provide assistance under the program in the form of loans or grants to make rental payments and finance security deposits on behalf of persons of low income. The state authority may establish limits from time to time on the amount of assistance available to applicants based on a determination of the average rental and security deposit costs in the area where the assistance is being provided.

[PL 1993, c. 175, §9 (NEW).]

3. Provisions governing assistance. The program must be administered subject to the provisions in this section. Priority must be given to persons who demonstrate a need for assistance and the ability to repay a loan.

A. The state authority, by rules adopted in accordance with the Maine Administrative Procedure Act, shall establish priorities of assistance. These priorities must be based on the household income of the applicant, the demonstrated need for assistance, the ability to repay a loan and other criteria established by the state authority. [PL 1993, c. 175, §9 (NEW).]

B. Grants may be provided only when:

(1) The grant is essential to securing a decent, safe and sanitary rental unit for the applicant;

(2) The income of the applicant is insufficient to repay any loan or portion of a loan;

(3) All available resource alternatives have been exhausted; and

(4) The applicant has satisfied all other program priorities and requirements as established by the state authority. [PL 1993, c. 175, §9 (NEW).]

C. Loans from the fund may be made for a period based on the applicant's ability to repay the loan, not to exceed 12 months. Interest may be charged on loans based on the applicant's ability to repay the loan, not to exceed 3%. When an applicant can not repay the loan in full within the 12-month period, the state authority may extend the repayment period if the state authority determines that the loan can be repaid during the extension period. The state authority may defer or waive the payment of interest or principal on any loan or portion of a loan for which that payment is an undue hardship. [PL 1993, c. 175, §9 (NEW).]

D. Assistance under the program must be provided on an ongoing basis to the extent that money is available in the fund. [PL 1993, c. 175, §9 (NEW).]

[PL 1993, c. 175, §9 (NEW).]

4. Procedures. The state authority may adopt rules in accordance with the Maine Administrative Procedure Act, by which the program must be implemented.

[PL 1993, c. 175, §9 (NEW).]

SECTION HISTORY

PL 1993, c. 175, §9 (NEW).

SUBCHAPTER 4

FUNDS

§4771. Federal aid

1. Purpose; contractual conditions. It is the purpose and intent of this chapter to authorize every authority to do all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any project by an authority and in the authority's exercise of the other powers granted to the authority in this chapter. To accomplish this purpose, an authority, notwithstanding any other law, may include in any contract with the Federal Government for financial assistance any conditions which the Federal Government attaches to its financial aid of a project, not inconsistent with the purposes of this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Additional powers. In addition to the powers conferred upon an authority by other provisions of this chapter, an authority may:

A. Borrow money or accept contributions, grants or other financial assistance from the Federal Government for or in aid of any project within its area of operation; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Take over or lease or manage any project or undertaking constructed or owned by the Federal Government; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. For the purposes of paragraphs A and B, comply with any conditions and enter into any mortgages, trusts, indentures, leases or agreements that are necessary, convenient or desirable. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Contracts for annual contributions. In any contract with the Federal Government for annual contributions to the authority, the authority may obligate itself, notwithstanding any other laws, to convey to the Federal Government the project to which the contract relates, upon the occurrence of a substantial default, as defined in the contract, with respect to the covenants or conditions to which the authority is subject. This obligation is specifically enforceable and does not constitute a mortgage. The contract may further provide that, in case of such conveyance, the Federal Government may complete, operate, manage, lease, convey or otherwise deal with the project in accordance with the terms of the contract, provided the contract requires that, as soon as practicable after the Federal Government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal Government will reconvey the project as then constituted to the authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Approval of municipality necessary; exceptions.

[PL 2017, c. 234, §26 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §26 (AMD).

§4772. Municipal advances to housing authorities

The municipality for which a housing authority is created may lend or donate money to the authority. When such a loan is made to a housing authority to aid its initial organization or its planning and preparation for projects, the loan may be made upon the condition that the housing authority will repay the loan out of any money which becomes available to it for the construction of the projects involved. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 5

LOANS TO FINANCIAL INSTITUTIONS

§4801. Findings and purpose

The Legislature finds that economic conditions have, from time to time since the original enactment of the Maine Housing Authorities Act, created circumstances in which Maine residents have been unable to support financing costs for the purchase of new or substantially rehabilitated homes or for the purchase of existing housing. To provide mortgage funds to allow Maine citizens who are persons of low income to enjoy the benefits of home ownership or residency in privately owned apartments, the expansion of the financial capacity of the Maine State Housing Authority as a source of additional loan money for housing in Maine is undertaken in this subchapter. It is further declared that the purposes of this subchapter are public purposes and uses for which public funds may be borrowed, loaned, advanced or expended. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4802. Institutional loans

1. Loans authorized. The Maine State Housing Authority may make loans to financial institutions for the purpose of providing mortgage funds for the financing of housing units or housing projects for persons or families of low income. These loans are referred to in this subchapter as "institutional loans." Financial institutions receiving or to receive such loans are referred to in this subchapter as "participating financial institutions." A participating financial institution which does not maintain a regular place of business in the State must contract for the origination of mortgage loans with a financial institution with a regular place of business in the State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Eligible mortgage loans. Eligible mortgage loans under this subchapter are mortgage loans for the purpose of:

A. Acquiring one-family or multi-family housing units, housing projects and improvements located on an Indian reservation in the State; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Rehabilitating housing units or housing projects or to promote the conservation of energy resources; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Constructing, reconstructing or developing housing units or housing projects; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Purchasing manufactured housing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4803. Issuance of bonds; rules

The Maine State Housing Authority may issue bonds for the purpose of making institutional loans to participating financial institutions. The participating financial institutions shall invest the proceeds of these institutional loans in mortgage loans for the financing of housing units or housing projects for persons of low income. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Rules. Before making any institutional loan under this section, the Maine State Housing Authority shall establish rules concerning:

A. The interest rate and terms of institutional loans to be made to participating financial institutions; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The time within which participating financial institutions must make commitments and disbursements for mortgage loans; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The type and amount of collateral security to be pledged by participating financial institutions to ensure repayment of institutional loans from the Maine State Housing Authority as provided in section 4806; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Standards as to the construction or rehabilitation for the housing units or housing projects to be financed; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Procedures for the submission of requests or the invitation of proposals for institutional loans; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Schedules of fees and other charges to be made by the Maine State Housing Authority or the participating financial institution, or both, in accepting, acting upon or renewing applications for institutional loans or mortgage loans under this section; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Limiting the rate of return on mortgage loans made by participating financial institutions; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Establishing the time within which participating financial institutions will invest the proceeds of the institutional loans in mortgage loans; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Any other matters related to institutional loans or mortgage loans that the Maine State Housing Authority considers necessary. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4804. Bonds; use of proceeds

Institutional loans made and rules established under this subchapter shall be designed to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Expand mortgage funds. Expand the supply of funds available in the State for residential mortgage loans;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Improve housing for low-income persons. Provide funds to alleviate the shortage of decent, safe and sanitary living accommodations in the State for persons of low income; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Improve energy conservation. In the case of rehabilitated housing units or housing projects, improve and promote conservation of energy resources or otherwise improve the quality of existing housing.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4805. Provisions of bonds

The indebtedness created by an institutional loan to a participating financial institution is a general obligation of that participating financial institution and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such bond, note or other certificate of indebtedness, may be subject to prepayment with or without penalty, and shall contain any other provisions consistent with this section and with the rules established under this section by the Maine State Housing Authority that the Maine State Housing Authority considers necessary. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4806. Bonds; collateral

The Maine State Housing Authority shall require that institutional loans be secured as to payment of both principal and interest by a pledge of and lien upon qualified collateral security. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The Maine State Housing Authority may establish any requirements that it considers necessary with respect to the pledging, assigning, setting aside or holding of this collateral and the making of substitutions for or additions to the collateral and the disposition of income and receipts from the collateral. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Notwithstanding any other provision of law, participating financial institutions may do any acts required by this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4807. Separability

In accordance with section 4722, subsection 1, paragraph H, the authority to issue bonds granted by this subchapter and the terms, conditions, purposes and uses of those bonds are separate from, and not limited or restricted by, the authority to issue bonds granted in the several separate subchapters of this chapter. The provisions of all other subchapters of this chapter apply to this subchapter except sections 4901 to 4907. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4808. Bond rating category

Bonds issued under this subchapter must be rated at or before issuance of the bonds in a rating category of A or its equivalent or better by a nationally recognized rating agency. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 6

CONSTRUCTION LOANS

§4831. Findings and purpose

The Legislature finds that: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Shortage exists. A shortage of decent housing accommodations for persons or families of low income exists in the State;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Shortage of funds. A cause of the lack of new construction in the State has been the recurrent shortage of funds from private sources;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Hardship. The reduction in this construction has caused substantial unemployment and underemployment in the construction industry which results in hardship, wastes human resources, impedes the economic and physical development of the State, causes a shortage of housing for persons of low income and adversely affects the welfare and prosperity of the State;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Encourage construction. A stable supply of construction loan funds will encourage new housing construction;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Public funds. The availability of public funds will create inducements and opportunities for public and private investment in new housing construction; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Public use. Providing these funds is necessary for the public benefit and welfare and is a public use for which funds may be borrowed, advanced, loaned or expended.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4832. Construction loans

The Maine State Housing Authority may participate with financial institutions in the State in the making of construction loans for the purpose of land development and the construction of housing units or housing projects for persons of low income, under any terms and conditions that the Maine State Housing Authority may establish by rule. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Participation requirements. Except as provided in paragraphs A and B, the Maine State Housing Authority may not participate in the making of construction loans unless a financial institution in the State agrees to participate in the loan at least to the extent of acting as escrow agent. Notwithstanding any other provisions of law, financial institutions in the State may act as required by this subchapter.

A. The Maine State Housing Authority may make construction loans to state public bodies or other public instrumentalities and private nonprofit corporations without the participation of a financial institution. [PL 1989, c. 48, §§4, 31 (NEW).]

B. If a project's financing requires that the Maine State Housing Authority participate in the construction loan at a level greater than 60%, the Maine State Housing Authority may make the whole construction loan without using an escrow agent. [PL 2017, c. 234, §27 (NEW).]

[PL 2017, c. 234, §27 (AMD).]

2. Rules. The Maine State Housing Authority shall establish rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, governing, without limitation, the following subjects and procedures for participating in the making of construction loans:

A. The submission, review and acceptance of requests from borrowers for construction loans under this section; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Qualifications of borrowers; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Limitation on and standards for location and construction of housing units or housing projects; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Schedules of fees and other charges made by the authority and the financial institution to the borrower in accepting, reviewing and acting upon applications for construction loans under this subchapter; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Restrictions on the interest rates charged by the financial institutions and the authority on the construction loans or the return on those loans to be realized by the financial institution. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§4,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 581, §10 (AMD). PL 2017, c. 234, §27 (AMD).

§4833. Bonds; issuance, separability of provisions

The Maine State Housing Authority may issue bonds from time to time to carry out the purposes of this subchapter. These bonds shall be secured in such manner as the Maine State Housing Authority by resolution may provide. The bonds shall be known as construction loan bonds. The authority to issue construction loan bonds under this subchapter constitutes a complete, additional and alternative method for the issuance of bonds from that provided in any other subchapter in this chapter. No limitation or restriction as to use of proceeds or total authorized amount of obligations outstanding stated in this subchapter applies to bonds issued under any other subchapter in this chapter, nor do such restrictions or limitations recited in other subchapters apply to bonds issued under this subchapter. Sections 4901 to 4907 do not apply to bonds issued under this subchapter. The provision in section 4832 restricting construction loans to housing projects for persons of low income is considered satisfied if at least a reasonable number of the families or individuals who will occupy the mortgaged premises are persons of low income. All other provisions of this chapter apply to bonds issued under this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The Maine State Housing Authority may not at any time have an aggregate principal amount of construction loan bonds outstanding in excess of $25,000,000. In computing the total amount of construction loan bonds of the Maine State Housing Authority which is outstanding at any time, 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. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 7

HOUSING OPPORTUNITIES FOR MAINE PROGRAM

§4851. Legislative findings and determinations

1. Findings. The Legislature finds that:

A. Economic conditions within the State and the United States have resulted in a significant reduction in the construction of new housing units in the State and in a significant reduction of the availability of mortgages made by financial institutions in the State; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The Federal Government has significantly reduced the types and amounts of housing assistance to citizens of the State and the United States; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A substantial number of Maine's citizens cannot afford housing which is decent, safe and sound; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. A significant number of housing units in the State require repairs or improvements necessary to eliminate dangers to the health or safety of the occupants of those units or to ensure that those units are energy-efficient; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The demand for housing is increasing more quickly than the supply of housing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The United States Mortgage Subsidy Bond Tax Act of 1980, Public Law 96-499, Title XI, Subtitle A; 94 Stat. 2660-2681, and conditions in national financial markets have prevented the Maine State Housing Authority from selling bonds to provide funds for affordable mortgage loans on certain owner-occupied housing; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The adverse impact of the problems found by the Legislature cannot be effectively lessened without financial assistance for housing provided by the State through the Maine State Housing Authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Determination. The Legislature determines that:

A. From time to time the Legislature should appropriate money from the General Fund in order to carry out the program established under this subchapter; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Upon adoption of any such appropriations act, the Maine State Housing Authority shall use the money to carry out the program established under this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4852. Housing Opportunities for Maine Program

1. Operator of program. The Maine State Housing Authority shall operate the Housing Opportunities for Maine Program. This program may be operated in conjunction with or as part of one or more other programs of the Maine State Housing Authority.

[PL 1999, c. 16, Pt. M, §1 (AMD).]

2. Use of money. Money in the fund may be used as provided in this subsection.

A. Money in the Housing Opportunities for Maine Fund may be applied to:

(1) Reduce the rate of interest on or the principal amount of such mortgage loans as the Maine State Housing Authority determines;

(2) Reduce payments by persons of low-income for the rental of single-family or multi-unit residential housing;

(3) Make mortgage loans and such other types of loans or grants as the Maine State Housing Authority determines;

(4) Fund reserve funds for, pay capitalized interest on, pay costs of issuance of or otherwise secure and facilitate the sale of the Maine State Housing Authority's bonds issued under this subchapter;

(5) Pay the administrative costs of state public bodies or other public instrumentalities and private, nonprofit corporations directly associated with housing projects; and

(6) Otherwise make the costs of single-family or multi-unit residential housing affordable by persons of low-income. [PL 1989, c. 48, §§5, 31 (RPR).]

A-1. In addition to the uses provided in paragraph A, the following may be used to pay the administrative costs of the authority's programs:

(1) No more than 3% of the money in the fund, other than amounts derived from the dedication of the tax on real estate transfers established in Title 36, chapter 711-A;

(2) Any earnings from the fund; and

(3) Any recoveries to the fund, including, but not limited to, repayments, recaptures of principal and recaptures of interest owed. [PL 1989, c. 581, §11 (NEW).]

B. Notwithstanding the requirements of section 4702, subsection 10, mortgage loans made or assisted with money from the fund may be secured by a mortgage which does not constitute a first lien. [PL 1989, c. 48, §§5, 31 (RPR).]

C. If any money in the Housing Opportunities for Maine Fund is used in conjunction with or as part of the issuance of any mortgage purchase bonds and the proceeds of the bonds are allocated by the Maine State Housing Authority to assist in the acquisition of housing, the Maine State Housing Authority may require that the purchaser of the housing make a minimum down payment in an amount determined by the Maine State Housing Authority; except that any such requirement shall not apply to mortgage loans insured or guaranteed by the United States Veterans Administration, the Federal Housing Administration or any other agency of the Federal Government that allows for a lesser down payment than that required by the Maine State Housing Authority. The Maine State Housing Authority may not limit the maximum down payment that may be required. [PL 1989, c. 48, §§5, 31 (NEW).]

D. Money in the fund may be provided to 3rd parties to provide reasonable administrative support and planning funds for the development or specific creation of new housing units or the rehabilitation of dilapidated or substandard existing housing units. [PL 1989, c. 48, §§5, 31 (NEW).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§5, 31 (RPR); PL 1989, c. 104, Pt. C, §8, 10 (AMD); PL 1989, c. 581, §11 (AMD).]

3. Availability requirement.

[PL 2007, c. 562, §7 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§5,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 581, §11 (AMD). PL 1991, c. 606, §C1 (AMD). PL 1991, c. 606, §C3 (AFF). PL 1999, c. 16, §M1 (AMD). PL 2007, c. 562, §7 (AMD).

§4853. Fund created

1. Creation. There is created and established under the jurisdiction and control of the Maine State Housing Authority the Housing Opportunities for Maine Fund.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Definitions. As used in this subchapter, unless the context otherwise indicates, the term "fund" means the Housing Opportunities for Maine Fund created by subsection 1.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4854. Sources of fund

There shall be paid into the fund: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Appropriations. All money appropriated from the General Fund for inclusion in the fund;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Repayment of advances. Subject to any pledge, contract or other obligation under section 4855, any money which the Maine State Housing Authority receives in repayment of advances from the fund;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Gains from investments. Subject to any pledge, contract or other obligation under this section, all interest, dividends and pecuniary gains from the investment of money of the fund;
[PL 2017, c. 234, §28 (AMD).]

3-A. Nonlapsing revolving loan funds. Any funds remaining in a revolving loan fund administered by the Maine State Housing Authority for a period longer than 10 years and directed by the Maine State Housing Authority to be paid into the fund; and
[PL 2017, c. 234, §29 (NEW).]

4. Other money. Any other money available to the Maine State Housing Authority and directed by the Maine State Housing Authority to be paid into the fund.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §§28, 29 (AMD).

§4855. Application of fund

1. Application to bonds of Maine State Housing Authority. Money in the fund may, in whole or in part, be pledged or transferred and deposited as security for and applied in payment of principal of, interest on or redemption premiums on bonds of the Maine State Housing Authority issued after April 1, 1982, in accordance with section 4852.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Application on behalf of low-income persons. Pursuant to any contract with or on behalf of persons of low income, the Maine State Housing Authority may, in whole or in part, apply money in the fund in accordance with section 4852.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4856. Accounts within fund

The Maine State Housing Authority may divide the fund into any separate accounts that it finds necessary to accomplish the purposes of this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4857. Recovery of money applied from fund

To the extent permitted by law and to the extent it is economically and socially reasonable, the Maine State Housing Authority may recover amounts from any person on whose behalf money from the fund has been applied to carry out this subchapter and may charge interest on those amounts at a rate determined by the Maine State Housing Authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Recovery deferred. The recovery may be deferred until:

A. The sale or refinancing of the housing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The end of the term of the mortgage loan; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any other time determined by the Maine State Housing Authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Limitation of recovery. Recourse for the recovery is limited to property subject to the mortgage, except in cases of fraud.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4858. Revolving fund

The fund is a revolving fund. The Maine State Housing Authority shall continuously apply all money in the fund to carry out this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 7-A

MAINE ENERGY, HOUSING AND ECONOMIC RECOVERY PROGRAM

§4861. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2009, c. 372, Pt. E, §1 (NEW).]

1. Authority. "Authority" means the Maine State Housing Authority.
[PL 2009, c. 372, Pt. E, §1 (NEW).]

2. Fund. "Fund" means the Maine Energy, Housing and Economic Recovery Fund established in section 4863.
[PL 2009, c. 372, Pt. E, §1 (NEW).]

3. Program. "Program" means the Maine Energy, Housing and Economic Recovery Program established in section 4862.
[PL 2009, c. 372, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 372, Pt. E, §1 (NEW).

§4862. Maine Energy, Housing and Economic Recovery Program

1. Operator of program. The Maine Energy, Housing and Economic Recovery Program is established. The authority shall operate the program. The program may be operated in conjunction with other programs of the authority.
[PL 2009, c. 372, Pt. E, §1 (NEW).]

2. Purposes of the program. The program is established to:

A. Establish stable, reliable, long-term capital funding sources dedicated to providing affordable housing for families in the State; [PL 2009, c. 372, Pt. E, §1 (NEW).]

B. Substantially increase the supply of housing that is affordable, safe, appropriately sized and located near jobs and services; [PL 2009, c. 372, Pt. E, §1 (NEW).]

C. Improve the energy efficiency of residential housing in the State through construction of new units, replacement of older substandard units and substantial rehabilitation of existing units; [PL 2009, c. 372, Pt. E, §1 (NEW).]

D. Stimulate the State's economy and create jobs through investment in the construction and rehabilitation of affordable rental housing; [PL 2009, c. 372, Pt. E, §1 (NEW).]

E. Replace hazardous, unhealthy and inefficient manufactured homes that do not meet the United States Department of Housing and Urban Development standards under 24 Code of Federal Regulations, Part 3280; and [PL 2009, c. 372, Pt. E, §1 (NEW).]

F. Reduce the State's greenhouse gas emissions, lower dependence on foreign oil and ease the energy burden on households in the State by increasing the energy efficiency of housing in the State. [PL 2009, c. 372, Pt. E, §1 (NEW).]

[PL 2009, c. 372, Pt. E, §1 (NEW).]

3. Program elements. The authority shall achieve the purposes of the program by applying the resources of the program to support construction or substantial rehabilitation of multifamily affordable rental housing units and replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations under 24 Code of Federal Regulations, Part 3280. The authority in allocating the resources of the program shall seek to achieve the following targets over time:

A. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving seniors, as defined by the authority; [PL 2009, c. 372, Pt. E, §1 (NEW).]

B. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving persons of any age; [PL 2009, c. 372, Pt. E, §1 (NEW).]

C. At least 10% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving populations with special needs, as defined by the authority; and [PL 2009, c. 372, Pt. E, §1 (NEW).]

D. At least 10% to the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations under 24 Code of Federal Regulations, Part 3280. [PL 2009, c. 372, Pt. E, §1 (NEW).]

In designing and implementing the program, the authority shall provide for the needs of rural communities through flexible standards for development size and income eligibility. No more than 30% of program resources may be allocated to projects of all types under these flexible standards.
[PL 2009, c. 372, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 372, Pt. E, §1 (NEW).

§4863. Maine Energy, Housing and Economic Recovery Fund

The Maine Energy, Housing and Economic Recovery Fund is established under the jurisdiction and control of the authority. The fund is nonlapsing and may be invested in the same manner as permitted for investment of other state funds. [PL 2009, c. 372, Pt. E, §1 (NEW).]

1. Use of fund. Money in the fund may be applied by the authority:

A. To reduce the rate of interest on or the principal amount of such mortgage loans as the authority determines; [PL 2009, c. 372, Pt. E, §1 (NEW).]

B. To make mortgage loans and such other types of loans or grants as the authority determines; [PL 2009, c. 372, Pt. E, §1 (NEW).]

C. To fund reserve funds for, pay capitalized interest on, pay costs of issuance of or otherwise secure and facilitate the sale of the bonds issued under section 4864; [PL 2009, c. 372, Pt. E, §1 (NEW).]

D. To pay the administrative costs of the program; [PL 2009, c. 372, Pt. E, §1 (NEW).]

E. To pay, in whole or in part, principal, interest, sinking fund payments or other costs on bonds issued by the authority under section 4864 for the purposes of this program; and [PL 2009, c. 372, Pt. E, §1 (NEW).]

F. In any other reasonable manner to support the purposes of the program. [PL 2009, c. 372, Pt. E, §1 (NEW).]

[PL 2009, c. 372, Pt. E, §1 (NEW).]

2. Sources of funds. The fund consists of:

A. All money transferred to the fund pursuant to Title 36, section 4641-B, subsection 4-B; [PL 2011, c. 453, §3 (AMD).]

B. Subject to any pledge, contract or other obligation under this subchapter, any money the authority receives in repayment of advances from the fund; [PL 2009, c. 372, Pt. E, §1 (NEW).]

C. Subject to any pledge, contract or other obligation under this subchapter, all interest, dividends and pecuniary gains from the investment of money of the fund; and [PL 2009, c. 372, Pt. E, §1 (NEW).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [PL 2009, c. 372, Pt. E, §1 (NEW).]

[PL 2011, c. 453, §3 (AMD).]

3. Fund as security. Money in the fund may, in whole or in part, be pledged or transferred and deposited as security for and applied in payment of principal of, interest on or redemption premiums on bonds issued under section 4864 for the purposes of this subchapter.

[PL 2009, c. 372, Pt. E, §1 (NEW).]

4. Division of fund. The authority may divide the fund into any separate accounts that it finds necessary to accomplish the purposes of this subchapter.

[PL 2009, c. 372, Pt. E, §1 (NEW).]

5. Reporting. Not later than March 1, 2011 and March 1st of each year thereafter, the director of the authority shall report to the joint standing committee of the Legislature having jurisdiction over affordable housing matters on the status of the fund as long as there has been new activity since the previous report. The report must include, but is not limited to, the amount of revenue bonds issued under this subchapter, the type, location and cost of projects receiving bond proceeds, the number of housing units created by each project, the number of direct construction jobs created or maintained by each project, the amount of direct construction wages paid in creating or maintaining those jobs and the total amount of building materials purchased in the development of each project.

[PL 2017, c. 234, §30 (AMD).]

SECTION HISTORY

PL 2009, c. 372, Pt. E, §1 (NEW). PL 2011, c. 453, §3 (AMD). PL 2017, c. 234, §30 (AMD).

§4864. Bonds

Beginning in fiscal year 2010-11, pursuant to its authority under this chapter, the authority may issue revenue bonds from time to time, to be known as Maine Energy, Housing and Economic Recovery Fund revenue bonds, to carry out the purposes of the program. Notwithstanding any other provision of law, the authority may have in the aggregate principal amount outstanding at any one time Maine Energy, Housing and Economic Recovery Fund revenue bonds up to but not exceeding $200,000,000, excluding refunding bonds. The authority may issue in any fiscal year revenue bonds under this subchapter in an amount of $30,000,000 or more, as determined appropriate by the authority for the purposes of the program. [PL 2009, c. 372, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 372, Pt. E, §1 (NEW).

SUBCHAPTER 8

BONDS

§4871. Issuance and conditions

An authority may issue bonds from time to time in its discretion for any of its corporate purposes. An authority may issue refunding bonds for the purpose of paying or retiring bonds previously issued

by it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Methods of repayment; security. An authority may issue such types of bonds as it may determine, including, but not limited to, bonds on which the principal and interest are payable:

A. Exclusively from the income and revenues of the project financed with the proceeds of those bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Exclusively from the income and revenue of certain designated projects whether or not they are financed in whole or in part with the proceeds of those bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. From its revenues generally or exclusively from the proceeds of mortgages, bonds, or notes or other securities held by the authority; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. From money appropriated by the State or otherwise authorized in this chapter to be applied for the payment of principal, redemption price and interest on the bonds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government or other source, or a pledge of any income or revenues of the authority or a mortgage of any project, projects or other property of the authority. These bonds may also be secured by one or more Capital Reserve Funds established under section 4906.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Negotiable instruments. Whether or not the bonds are of such form and character as to be negotiable instruments under the Uniform Commercial Code, Title 11, article 8-A, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Title 11, article 8-A, subject only to the provisions of the bonds for registration.

The bonds may be sold at public or private sale. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.
[PL 2017, c. 234, §31 (AMD).]

3. Municipal authorities. In the case of a municipal authority, no bonds may be issued, the principal and interest of which are to be payable from the proceeds of mortgages and notes held by the authority under subchapter IX, unless:

A. The bonds are rated in a rating category of A, its equivalent or better, by a nationally recognized rating agency; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The authority has received consent to issue these bonds from the legislative body of the municipality in which the authority is established; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. In the case of a city authority, the authority has also received the consent of the legislative body of any towns within the area of operation of the authority in which money from the issuance of the bonds may be made available. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

§106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Municipal authorities, considered together, may not at any time have, in the aggregate principal amount of the bonds outstanding, bonds described in this subsection in excess of $50,000,000.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Authorization; sale; details of bond. Bonds of an authority shall be authorized by resolution and may be issued in one or more series. Bonds of an authority shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, as such resolution, its trust indenture or mortage may provide.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Signatures on bonds or coupons. If any commissioner or officer of the authority whose signature appears on any bonds or coupons ceases to be a commissioner or officer before the bonds are delivered, the signature is nevertheless valid for all purposes, the same as if the commissioner or officer had remained in office until the delivery.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. No liability on bonds. Neither the commissioners of an authority nor any person executing the bonds may be personally liable on the bonds by reason of the issuance of the bonds. The bonds and other obligations of an authority shall not be a debt of the municipality, the State or any political subdivision of the State and neither the municipality nor the State or any political subdivision of the State may be liable on those bonds; the bonds and obligations shall so state on their face. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. In no event may these bonds or obligations be payable out of any funds or properties other than those of the authority. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest on and income from those bonds, are exempt from taxes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Presumption of validity. In any civil action or proceedings involving the validity or enforceability of any bond of an authority or the security for that bond, any bond reciting in substance that it has been issued by the authority to aid in financing the activities of the authority is deemed to have been issued for that purpose, and those activities are deemed to have been planned, located and carried out in accordance with the purposes and provisions of this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §31 (AMD).

§4872. Provisions of bonds, trust indentures and mortgages

In order to secure the payment of its bonds, an authority in addition to its other powers may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Pledge of assets. Pledge all or any part of its gross or net rents, fees or revenues, including any grants or contributions from the Federal Government or other source, to which its right then exists or may thereafter come into existence, except the proceeds described in sections 4905 and 4906, which shall be applied as described in those sections;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Mortgage property. Mortgage all or any part of its real or personal property then owned or thereafter acquired;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Covenants against pledging, mortgaging, disposal or debts. Covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on those revenues or property; it may covenant with respect to its right to sell, lease or otherwise dispose of any housing project or any part of a housing project; and it may covenant as to what other or additional debts or obligations may be incurred by it;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Covenants against extending bond payments and redemption. Covenant against extending the time for the payment of its bonds or interest on the bonds, and may covenant for the redemption of the bonds and may provide the terms and conditions of redemption;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Procedure to amend contracts with bondholders. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to that amendment and the manner in which that consent may be given;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Breach of covenant. Covenant as to the rights, liabilities, powers and duties arising upon the authority's breach of any covenant, condition or obligation; and it may covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations will become or may be declared due before maturity, and as to the terms and conditions upon which that declaration and its consequences may be waived; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. General powers. Exercise all or any part or combination of the powers granted; it may make any other covenants and do any acts and things that are necessary or desirable in order to secure its bonds or, in the absolute discretion of the authority, that will tend to make the bonds more marketable, notwithstanding that those covenants, acts or things are not enumerated.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

It is the intention of this section that any pledge made by the Maine State Housing Authority concerning such bonds or notes is valid and binding from the time when the pledge is made; that the money or property so pledged and thereafter received by the Maine State Housing Authority is immediately subject to the lien of that pledge without any physical delivery thereof or further act; and that the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Maine State Housing Authority irrespective of whether those

parties have notice of that lien. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4873. Remedies of an obligee

An obligee of an authority has the right in addition to all other rights which may be conferred on the obligee, subject only to any contractual restrictions binding upon the obligee: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Compel performance. By mandamus, civil action or proceeding to:

A. Compel the authority and its commissioners, officers, agents or employees to perform every term, provision and covenant contained in any contract of the authority with or for the benefit of the obligee; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Require the carrying out of any or all the covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Enjoin. By civil action or proceeding to:

A. Enjoin any unlawful acts or things; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Enjoin the violation of any of the rights of the obligee of the authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4874. Additional remedies conferrable by authority

An authority may by its resolution, trust indenture, mortgage, lease or other contract confer upon any obligee holding or representing a specified amount in bonds, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in the resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Cause possession of project to be surrendered. Cause possession of any project or any part of a project to be surrendered to any such obligee;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Obtain appointment of receiver. Obtain the appointment of a receiver of any project of the authority or any part of a project and of the rents and profits from the project; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Require accounting. Require the authority and the commissioners of the authority to account as if it and they were the trustees of an express trust.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4875. Bonds as legal investments and security

1. Purpose; application. It is the purpose of this section to authorize any of the persons or entities referred to in subsection 2 to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any bonds or obligations described in subsection 2. This section applies notwithstanding any restrictions on investments contained in other laws.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Qualifications of bonds. The State and all public officers, municipal corporations, political subdivisions and public bodies, all banks, bankers, trust companies, savings banks, commercial banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority created by or under this chapter or issued by any public housing authority or agency in the United States, Puerto Rico, Guam or the Virgin Islands, when those bonds or other obligations are secured by:

A. A pledge of annual contributions or other financial assistance to be paid by the Federal Government; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An agreement between the Federal Government and the public housing authority in which the Federal Government agrees to lend to the public housing authority, before the bonds or other obligations mature, money in an amount which, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, will suffice to pay the principal of the bonds or other obligations with interest to maturity, which money under the terms of the agreement is required to be used for that purpose. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Authorized security; negotiability. Bonds and other obligations described in subsection 2 are authorized security for all public deposits and are fully negotiable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Duty of reasonable care not abrogated. Nothing in this section may be construed as relieving any person from any duty of exercising reasonable care in selecting securities.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 9

MORTGAGE CREDIT

§4901. Purchase and sale of mortgage loans

An authority may purchase or make commitments to purchase mortgage loans from any financial institution, pension or retirement fund, any fiduciary or any other person or governmental or business entity. An authority may also sell or make commitments to sell mortgage loans to any pension or retirement fund, any fiduciary or any other person, governmental or business entity or financial institution. An authority may exercise all rights and powers of a holder of any such mortgage loan.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4902. Lenders certification

A mortgage loan is not eligible for purchase or commitment to purchase by an authority under this subchapter unless at or before the time of transfer of the loan to the authority, the originating bank, life insurance company, savings and loan association, other financial institution or the Federal Government certifies that: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Loan a prudent investment. In its judgment the mortgage loan would in all respects be a prudent investment for its own account; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Reinvestment of sale proceeds. When the mortgage loan so sold is secured by land and improvements constituting a one-family to 4-family housing unit or has been held by the originator for more than one year since the completion of the construction of the securing structure, the proceeds of sale or its equivalent will be reinvested in residential mortgages or notes within the State, or invested in short term obligations pending the purchase of such residential mortgages or notes. For purposes of this section and section 4903, the term "residential mortgages or notes" includes, but is not limited to, mortgage loans.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4903. Authority not obligated

1. Authority may decline to purchase. The authority may at any time decline to purchase or decline to make commitments to purchase any mortgage loan or obligation offered or submitted to it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Reinvestment required. An authority may not purchase from a seller who has previously sold to the authority mortgage loans or obligations secured by land and improvements constituting one-family to 4-family housing units, any new mortgage loan or obligation secured by land and improvements constituting a one-family to 4-family housing unit until that seller has completed the reinvestment in residential mortgages or notes or the purchase of those residential mortgages or notes contemplated in section 4902 and so informed the authority in writing, provided that if the seller had entered into a contract with the authority which provided for reinvestment of the proceeds of the sale of mortgages or obligations with certain restrictions within a certain time period, compliance with the terms of that contract constitutes compliance with this subsection. Any seller who is performing within the terms of the contract is deemed to have completed the reinvestment requirements within the meaning of this subsection with respect to mortgages or obligations subject to that contract.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4904. Consideration for mortgage loans purchased

An authority shall pay for each mortgage loan or obligation purchased an amount not in excess of the outstanding principal balance; discount from the principal balance may be employed to effect a fair rate of return, as determined by the rate of return on comparable investment under market conditions existing at the time of purchase. In addition to this payment of outstanding principal balance, the authority shall pay the accrued interest due on the date the mortgage loan or obligation is delivered to the authority against payment therefor. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4905. Bonds; use of proceeds

1. Issuance authorized. An authority may authorize the issuance of its revenue bonds as provided in section 4871 for any of its authorized purposes including the purchase of mortgage loans or evidences of mortgage loans, for residential housing or a housing project in the State in accordance with section 4901. These loans may include, but are not limited to, loans which are insured, guaranteed or assisted by the Federal Government or for which there is a commitment by the Federal Government to insure, guaranty or assist the loan.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Restrictions on use. The loan must be for persons and families:

A. Deemed by the authority to require the assistance made available by this chapter because of low personal or family income, taking into consideration:

(1) The amount of the total income of the persons and families available for housing needs;

(2) The size of the family;

(3) The eligibility of the persons and families for federal housing assistance of any type predicated upon a low-income basis; and

(4) The ability of the persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Deemed by the authority therefor to be eligible to occupy residential housing constructed and financed, wholly or in part, with insured construction loans or insured mortgages, or with other public or private assistance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Occupancy by persons of low income required. An authority may not purchase a mortgage loan or evidence of a loan unless at least a reasonable number of the families or individuals who occupy or will occupy the mortgaged premises are persons of low income. The authority shall ensure that the mortgaged premises is continued in use for the originally planned purpose as long as that use is economically and socially reasonable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4906. Application of receipts; special reserve fund

1. Housing Reserve Fund. The Maine State Housing Authority shall establish and maintain a special fund called the "Housing Reserve Fund" which consists of:

A. All money appropriated by the State for inclusion in the fund; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. All proceeds of the sale of bonds, required to be deposited in the fund by the terms of the resolution authorizing the sale of the bonds; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any other money available to the Maine State Housing Authority which it determines to use for this purpose. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

All money held in the Housing Reserve Fund shall be used only to retire bonds of the Maine State Housing Authority issued to purchase mortgage loans or notes, or to maintain the Housing Reserve Fund at an amount equal to the minimum reserve established by the Maine State Housing Authority. Any proceeds beyond the amount necessary to this function may be used to replace matured mortgage loans or notes or to purchase mortgage loans or notes, or to pay any or all expenses of the Maine State

Housing Authority up to 1/2 of 1% of the bond value outstanding each year. The minimum amount of this Housing Reserve Fund shall be the minimum amount of money sufficient to meet the maximum payment required in the following calendar year for payment of principal and interest falling due on all other outstanding bonds and retiring all other bonds required by their terms to be retired. These amounts are referred to in this subchapter as the required "minimum reserve."
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Capital Reserve Fund. The Maine State Housing Authority may establish and maintain one or more special funds called the "Capital Reserve Fund" which consists of:

A. All money appropriated by the State for inclusion in that fund; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. All proceeds of the sale of bonds, required to be deposited in the fund by the terms of the resolution authorizing the sale of those bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. All other money available to the Maine State Housing Authority which it determines to use for this purpose. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

All money held in any Capital Reserve Fund shall be used only to retire those bonds of the Maine State Housing Authority issued to purchase mortgage loans or notes or home improvement notes under the resolution establishing a Capital Reserve Fund, or to maintain a Capital Reserve Fund at an amount equal to the minimum reserve established by the Maine State Housing Authority. Any proceeds beyond the amount necessary to this function may be used to replace matured mortgage loans or notes or home improvement notes or to purchase mortgage loans or notes or home improvement notes or to pay any expenses of the Maine State Housing Authority up to 1/2 of 1% of the bond value outstanding each year under the resolution creating a Capital Reserve Fund. The minimum amount of any Capital Reserve Fund shall be equal to the amounts required under the resolutions pursuant to which the bonds secured by the Capital Reserve Fund are issued. These amounts are referred to in this subchapter as the required "minimum reserve."
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Required minimum reserve. Notwithstanding any other provision of this chapter, no bonds may be issued by the Maine State Housing Authority unless there is in the Housing Reserve Fund or Capital Reserve Fund which will secure those bonds the required minimum reserve for all the bonds issued and to be issued which will be secured by the Housing Reserve Fund or Capital Reserve Fund. The Maine State Housing Authority may satisfy this requirement by depositing so much of the proceeds of the bonds being issued, upon their issuance, as is needed for the fund to achieve the required minimum reserve.

A. In order to ensure the maintenance of the required minimum reserve in the Housing Reserve Fund and in any Capital Reserve Fund to which this paragraph is stated to apply in the resolution establishing the Capital Reserve Fund, there shall be annually appropriated and paid to the Maine State Housing Authority for deposits in those funds, the sum, if any, that is certified by the director of the Maine State Housing Authority to the Governor as necessary to restore any such fund to an amount equal to its required minimum reserve. The director shall annually, by December 1st, make and deliver to the Governor a certificate stating the sum, if any, required to restore any such fund to an amount equal to its required minimum reserve, and the sum or sums so certified shall be

appropriated and paid to the Maine State Housing Authority during the then current state fiscal year.

(1) For purposes of valuation of the Housing Reserve Fund or Capital Reserve Fund to which this paragraph applies, securities acquired as an investment for any such fund shall be valued at par or actual cost to the Maine State Housing Authority, whichever value is less. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. For any Capital Reserve Fund to which paragraph A is not stated to apply in the resolution establishing the Capital Reserve Fund, there shall be no certification by the director to the Governor or appropriation and payment by the Legislature for deposit in the fund to restore the fund to an amount equal to its required minimum reserve. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4907. Limitations

1. Limitations on amount of outstanding principal. The Maine State Housing Authority may not at any time have an aggregate principal amount outstanding, in excess of $2,150,000,000 of mortgage purchase bonds secured by the Housing Reserve Fund or a Capital Reserve Fund to which section 4906, subsection 3, paragraph A applies. Mortgage purchase bonds of the Maine State Housing Authority secured by capital reserve funds to which section 4906, subsection 3, paragraph A does not apply, bond or mortgage insurance, direct or indirect contract with the United States, purchase or repurchase agreement of guaranty with a banking or other financial organization or other credit arrangements securing the bonds may be issued up to $100,000,000 per calendar year in an aggregate principal amount outstanding at any time not to exceed $300,000,000.

[PL 2001, c. 631, §1 (AMD).]

2. Bond rating. Mortgage purchase bonds must be rated at or before issuance of the bonds in a rating category of A or its equivalent or better by a nationally recognized rating agency. A rating is not necessary for any issue of mortgage purchase bonds which:

A. Is not subject to section 4906, subsection 3, paragraph A; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Is sold in its entirety to one or more financial institutions, insurance companies or similar finance entities for its own account and not with the present intention of resale. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§6,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 914, §6 (AMD). PL 1991, c. 574, §3 (AMD). PL 1991, c. 871, §5 (AMD). PL 1997, c. 491, §1 (AMD). PL 2001, c. 631, §1 (AMD).

§4908. Determination of outstanding obligations

In computing the total amount of obligations of the Maine State Housing Authority which may at any time be outstanding for any purpose under this chapter: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Amounts to be refunded excluded. The amount of the outstanding obligations refunded or to be refunded from the proceeds of the sale of new obligations or by the exchange of new obligations shall be excluded; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Amounts valued at current value. The amount of the outstanding obligations that have been issued as capital appreciation bonds or as similar instruments shall be valued as of any date of calculation at their then current accreted value rather than their face value.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4909. Mortgages eligible for investment

All mortgages, bonds and obligations of the Maine State Housing Authority are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, pension or retirement funds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4910. Annual report

The director of the Maine State Housing Authority shall prepare and submit to the Governor and the bank superintendent annually a complete report and a complete financial report duly audited and certified by the Office of the State Auditor or a certified public accountant to be distributed in the same way as state departmental reports. [PL 2015, c. 44, §7 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 125, §1 (AMD). PL 2013, c. 16, §10 (REV). PL 2015, c. 44, §7 (AMD).

§4911. Operating expenses

1. Funds available. All expenses incurred by the Maine State Housing Authority to pay for the operation and administration of any mortgage purchase program authorized under this subchapter are payable from any money available to the Maine State Housing Authority from any source contemplated by this chapter, including, but not limited to:

A. The money authorized to be applied by section 4906; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Money appropriated by the State; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Contributions, grants and other financial assistance from the Federal Government or other sources; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Proceeds of the sale of bonds and notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Income, rents and revenues of projects financed with the proceeds of the bonds or notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Interest on any investments of the Maine State Housing Authority; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Fees related to the mortgage purchase program; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Insurance premiums; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Proceeds of mortgages or other interest-bearing obligations purchased under section 4901. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Budget; preparation and approval; limitation. No later than January 1st in each year, the Maine State Housing Authority shall prepare and file in the office of the Bureau of the Budget a budget of its expenses of operation and administration for any mortgage purchase program for the fiscal year then commencing. This budget shall also set forth service fees relating to mortgages purchased. The budget may be amended at any time, and the amended budget shall also be filed with the office of the Bureau of the Budget. The commissioners must approve the budget and any amendments to it before it is filed in the office of the Bureau of the Budget.

The expenses of operation and administration set forth in each budget under this subsection may not exceed the amount of money available and estimated to be available from the sources listed in subsection 1, after deducting from that money the aggregate amount of principal and interest accrued and to accrue during the fiscal year on all bonds outstanding issued to finance the program authorized by this subchapter, all as set forth in each budget. The Maine State Housing Authority may not incur expenses of operation and administration for the program in excess of the amounts provided for those expenses in the budget.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Limitation on proceeds. No amount from the proceeds of the sale of bonds or income derived from bond proceeds in excess of 1/2 of 1% of the bond value outstanding each year may be used:

A. To pay for the expenses of operation and administration for the mortgage purchase program; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. For other programs of the Maine State Housing Authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Limitations. For the purposes of this section:

A. Proceeds of the sale of bonds or income derived from bond proceeds does not include:

(1) The principal of the Housing Reserve Fund or any Capital Reserve Fund established under this subchapter;

(2) Income earned in the Housing Reserve Fund or any Capital Reserve Fund; or

(3) The scheduled amortization payments of principal and interest called for by mortgages or mortgage loans purchased under this subchapter; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Expenses of operation and administration of a program do not include:

(1) The cost of issuance of bonds; or

(2) Fees paid to any financial institution by the Maine State Housing Authority for the purpose of servicing mortgage loans. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Other limitations unaffected. The separate limitations imposed by section 4906 on the use of money deposited in the Housing Reserve Fund or any Capital Reserve Fund are not affected by this section.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4912. Eligible conservation projects

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 501, §DD36 (AMD). PL 2017, c. 234, §32 (RP).

§4913. Penalties

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §33 (RP).

SUBCHAPTER 9-A

NATURAL DISASTER HOME ASSISTANCE PROGRAM

§4921. Natural Disaster Home Assistance Fund

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §34 (RP).

§4922. Maine Natural Disaster Home Assistance Program

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §34 (RP).

SUBCHAPTER 9-B

OVERBOARD DISCHARGE ASSISTANCE PROGRAM

§4926. Overboard Discharge Assistance Fund

(REPEALED)

SECTION HISTORY

PL 1989, c. 48, §§7,31 (NEW). PL 2017, c. 234, §34 (RP).

§4927. Maine Overboard Discharge Assistance Program

(REPEALED)

SECTION HISTORY

PL 1989, c. 48, §§7,31 (NEW). PL 1989, c. 878, §A89 (AMD). PL 1991, c. 238, §1 (AMD). PL 2017, c. 234, §34 (RP).

§4928. Bonds; issuance; separability of provisions

(REPEALED)

SECTION HISTORY

PL 1989, c. 48, §§7,31 (NEW). PL 2017, c. 234, §34 (RP).

SUBCHAPTER 10

HOUSING MORTGAGE INSURANCE LAW

§4931. Short title

This subchapter shall be known and may be cited as the "Housing Mortgage Insurance Law." [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4932. Declaration of purpose

The Constitution of Maine, Article IX, Section 14-C, provides for insuring payment of mortgage loans for Indian housing for the purpose of "fostering and encouraging the acquisition, construction, repair and remodeling of houses owned or to be owned by members of the 2 tribes on the several Indian reservations." It is the purpose of this subchapter to designate the Maine State Housing Authority as the state agency responsible for implementing the powers provided for in the Constitution of Maine, Article IX, Section 14-C. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Whereas the power of the Maine State Housing Authority to insure mortgages on housing, other than Indian housing, needs clarification, and whereas the Maine State Housing Authority is the appropriate agency of the State to administer a state housing mortgage insurance program and could administer it in conjunction with the Indian Housing Mortgage Insurance Program, it is the further purpose of this subchapter to provide that clarification. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4933. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Housing. "Housing" includes, but is not limited to, any "project" or "housing project," as defined in section 4702, subsection 14.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Housing Mortgage Insurance Fund. "Housing Mortgage Insurance Fund" means the fund established under section 4934-A by the Maine State Housing Authority for the purpose of providing insurance for the payment of mortgage loans for housing in the State.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 581, §12 (AMD).]

2-A. Housing Mortgage Insurance Program. "Housing Mortgage Insurance Program" means any program of providing insurance for the payment of mortgage loans for housing in the State established by the Maine State Housing Authority.
[PL 1989, c. 581, §13 (NEW).]

3. Indian Housing Mortgage Insurance Fund. "Indian Housing Mortgage Insurance Fund" means any Housing Mortgage Insurance Fund established by the Maine State Housing Authority in cooperation with the Indian Housing Authority for the purpose of providing insurance for the payment of mortgage loans for housing on the Indian reservations.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Indian Housing Authority. "Indian Housing Authority" means any housing authority created by the Maine Indian Housing law.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Indian Housing Mortgage Insurance Committee. "Indian Housing Mortgage Insurance Committee" means a committee consisting of:

A. The Treasurer of State or Deputy Treasurer of State; [PL 1991, c. 511, Pt. B, §2 (AMD).]

B. The director or deputy director of the Maine State Housing Authority; [PL 1991, c. 511, Pt. B, §2 (AMD).]

C. The Commissioner of Finance or the State Budget Officer; and [PL 1991, c. 511, Pt. B, §2 (AMD).]

D. One person from the Passamaquoddy Tribe and one person from the Penobscot Nation to be chosen by the respective tribe or nation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1991, c. 511, Pt. B, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 581, §§12,13 (AMD). PL 1991, c. 511, §B2 (AMD).

§4934. Insurance policies

1. Contracts. The Maine State Housing Authority may:

A. Establish housing mortgage insurance contracts; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Charge and collect premiums; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Make appropriate payments; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Do all other things necessary and proper to administer a state housing mortgage insurance program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1-A. Application. The Housing Mortgage Insurance Program may be made available to persons who have not financed housing through a program of the Maine State Housing Authority.

[PL 1989, c. 48, §§8, 31 (NEW).]

2. Procedure. When providing mortgage insurance on Indian housing, the Maine State Housing Authority shall develop the various contracts and other aspects of the program in cooperation with the Indian Housing Authority and shall deal with insurance purchases exclusively through the agency of the Indian Housing Authority or a person acceptable to the Indian Housing Authority.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Limitation. Notwithstanding this section, the Maine State Housing Authority shall not make any contract or commitment of mortgage insurance on housing on the Indian reservations without the approval of a majority of the Indian Housing Mortgage Insurance Committee.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 581, §14 (AMD).]

4. Surplus revenues. Any revenues in excess of the money required to insure housing mortgages under this subchapter shall first be used to repay any loans from the General Fund. After repayment to the General Fund, any surplus money may be allocated to the Housing Opportunities for Maine Program.
[PL 1989, c. 48, §§9, 31 (NEW).]

5. Pledging of assets. Any obligations incurred under the Housing Mortgage Insurance Program shall be payable only from the Housing Mortgage Insurance Fund and shall create no lien or claim on behalf of any beneficiary nor on behalf of the fund against any other fund or funds of the Maine State Housing Authority.
[PL 1989, c. 581, §15 (NEW).]

6. Exemption. Any mortgage insurance program operated under this subchapter is exempt from all requirements imposed under the Maine Insurance Code.
[PL 1989, c. 581, §15 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§8,9,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 581, §§14,15 (AMD).

§4934-A. Housing Mortgage Insurance Fund

1. Fund created. There is established under the jurisdiction of the Maine State Housing Authority, or any nonprofit corporate subsidiary it may create for this purpose pursuant to section 4722, subsection 1, paragraph P, an insurance reserve fund called the Housing Mortgage Insurance Fund. As used in this section, the term "fund" means the Housing Mortgage Insurance Fund.
[PL 1989, c. 581, §16 (NEW).]

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

A. All money appropriated by the State for inclusion in the fund; [PL 1989, c. 581, §16 (NEW).]

B. All proceeds from the issuance of bonds on behalf of the State for inclusion in the fund; [PL 1989, c. 581, §16 (NEW).]

C. All premiums collected under the Housing Mortgage Insurance Program; [PL 1989, c. 581, §16 (NEW).]

D. All interest, dividends and pecuniary gains from investment of money of the fund; and [PL 1989, c. 581, §16 (NEW).]

E. Any other money available to the Maine State Housing Authority which it determines to use for this purpose. [PL 1989, c. 581, §16 (NEW).]

[PL 1989, c. 581, §16 (NEW).]

3. Application of fund. All money held in the fund shall be used only to make payments pursuant to housing mortgage insurance contracts, to pay any or all expenses of administration and operation of the Housing Mortgage Insurance Program and to maintain the fund at an amount equal to the minimum insurance reserve. The minimum insurance reserve shall be an amount equal to 10% of the aggregate outstanding housing mortgage insurance liability secured by the fund. Any money in the fund in excess of that needed to maintain the minimum insurance reserve may be allocated to the Housing Opportunities for Maine Program.

A. Money in the fund shall not be used as collateral, payment or in any other way to assist any insurance of mortgages on housing on the Indian reservations. [PL 1989, c. 581, §16 (NEW).]
[PL 1989, c. 581, §16 (NEW).]

4. Maintenance of fund. To ensure the maintenance of the fund at an amount equal to the required minimum insurance reserve, there shall be annually appropriated and paid for deposit in the fund the sum, if any, that is certified by the Director of the Maine State Housing Authority, or the director's designee, to the Governor as necessary to restore any such fund to an amount equal to its required minimum insurance reserve. The director, or the director's designee, shall annually, by December 1st, make and deliver to the Governor a certificate stating the sum, if any, required to restore the fund to an amount equal to its required minimum insurance reserve, and the sum so certified shall be appropriated and paid during the current state fiscal year.

A. For purposes of valuation of the fund, securities acquired as an investment for the fund shall be valued at par or actual cost, whichever value is less. [PL 1989, c. 581, §16 (NEW).]
[PL 1989, c. 581, §16 (NEW).]

5. Limitation on insurance. The maximum aggregate housing mortgage insurance liability secured by the fund which may be outstanding at any time is $25,000,000. In computing the aggregate outstanding housing mortgage insurance liability secured by the fund for purposes of this subsection, any housing mortgage insurance liability on which reinsurance has been obtained shall be excluded.
[PL 1989, c. 581, §16 (NEW).]

SECTION HISTORY

PL 1989, c. 581, §16 (NEW).

§4935. General obligation bonds for Indian housing mortgage insurance

The Maine State Housing Authority may request the Treasurer of State to issue up to $1,000,000 in state general obligation bonds for the purpose of providing funds to pay any necessary and proper costs or charges arising for any reason, including the default of any policy issued under section 4934, subsection 2, and incurred as a result of its insuring or undertaking to insure the payment of mortgages for Indian housing on an Indian reservation. Upon this request from the authority, the Treasurer of State shall issue the bonds as promptly as possible, but in any event not later than the next regularly scheduled bond issue of the State, unless prior to the issuance of the bonds, the amount so requested is provided to the Maine State Housing Authority by appropriation of the Legislature, by transfer from the State Contingency Account or otherwise. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Use of proceeds. Proceeds from the bond issuance may not be used as collateral, payment or in any other way to assist any insurance of mortgages on other than Indian housing on Indian reservations. Administrative funds used to assist in the management of an Indian Housing Mortgage Insurance Fund or program may be commingled with administrative funding for any Housing Mortgage Insurance Fund or program operated or to be operated by the Maine State Housing Authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Accounting of proceeds. Proceeds from the bond issuance shall be accounted for separately from the general assets of any other housing insurance fund and separately from any other funds operated at any time by the Maine State Housing Authority, its successors, assigns or trustees. This separate accounting shall be maintained even if funds are commingled for investment purposes by the authority or by a trustee of any fund operated by or for the authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§4936. Rulemaking

In order to implement and administer the Housing Mortgage Insurance Law, the Maine State Housing Authority may enact, amend or repeal rules under the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 10-A

ELDERLY HOMEOWNER EQUITY LOAN PROGRAM

§4941. Program established

The Elderly Homeowner Equity Loan Program is established to address the need of low-income elderly homeowners for additional income and to enable the elderly to remain in their homes. [PL 1989, c. 581, §18 (NEW).]

SECTION HISTORY

PL 1989, c. 581, §18 (NEW).

§4942. Elderly Homeowner Equity Loan Guarantee Fund

1. Creation. The Elderly Homeowner Equity Loan Guarantee Fund is established under the jurisdiction of the Maine State Housing Authority. As used in this section, the term "fund" means the Elderly Homeowner Equity Loan Guarantee Fund.
[PL 1989, c. 581, §18 (NEW).]

2. Sources of fund. Sources of the fund shall include:

A. All money appropriated for inclusion in the fund; [PL 1989, c. 581, §18 (NEW).]

B. Subject to any pledge, contract or other obligation, any money that the Maine State Housing Authority receives in repayment of advances from the fund; [PL 1989, c. 581, §18 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends and pecuniary gains from investment of money of the fund; and [PL 1989, c. 581, §18 (NEW).]

D. Any other money available to the state authority and directed by the Maine State Housing Authority to be paid into the fund. [PL 1989, c. 581, §18 (NEW).]
[PL 1989, c. 581, §18 (NEW).]

3. Application of fund. Funds may be applied in the following manner.

A. Money in the fund may be used by the Maine State Housing Authority to insure, guarantee, purchase or make disbursements on reverse annuity mortgage loans, home equity loans or other similar types of loans made to low-income elderly residents of the State either directly through the Maine State Housing Authority or a financial institution or indirectly through property or other tax deferral granted to a low-income elderly homeowner by a state, county, municipality or other taxing authority. Loans shall be secured by a mortgage on the residence, subject to any encumbrances,

including, without limitation, prior mortgage loans, that are acceptable to the Maine State Housing Authority or any other security as determined by the Maine State Housing Authority. [PL 1989, c. 581, §18 (NEW).]

B. Money in the fund may be pledged or transferred and deposited as security for and applied in payment of principal of, interest on or redemption premiums on bonds of the Maine State Housing Authority issued to carry out the purposes of this section. [PL 1989, c. 581, §18 (NEW).]

C. Interest, dividends and pecuniary gains from investment of money of the fund may be used by the Maine State Housing Authority to pay for the administrative expenses of the fund and its operation. [PL 1989, c. 581, §18 (NEW).]

[PL 1989, c. 581, §18 (NEW).]

4. Accounts within the fund. The Maine State Housing Authority may divide the fund into separate accounts determined necessary or convenient to accomplish the purposes of this section.
[PL 1989, c. 581, §18 (NEW).]

5. Revolving fund. The fund shall be a nonlapsing, revolving fund. The Maine State Housing Authority shall continuously apply all money in the fund to carry out this section.
[PL 1989, c. 581, §18 (NEW).]

SECTION HISTORY

PL 1989, c. 581, §18 (NEW).

§4943. Limitations

The following limitations apply to the Elderly Homeowner Equity Loan Program and the Elderly Homeowner Equity Loan Guarantee Fund under this subchapter. [PL 1989, c. 581, §18 (NEW).]

1. Priority. Priority shall be given to low-income elderly households.
[PL 1989, c. 581, §18 (NEW).]

2. Participation. Participation is limited to applicants who are 70 years of age or older.
[PL 1989, c. 581, §18 (NEW).]

3. Equity. The Maine State Housing Authority shall not insure, guarantee, purchase or make disbursements on loans for which the loan-to-value ratio exceeds 80%.
[PL 1989, c. 581, §18 (NEW).]

4. Use of funds. Loans provided to eligible recipients shall be used only for urgent matters as determined by the Maine State Housing Authority, including payment of property taxes, property maintenance, home care and similar matters.
[PL 1989, c. 581, §18 (NEW).]

SECTION HISTORY

PL 1989, c. 581, §18 (NEW).

§4944. Adoption of rules

Subject to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the Maine State Housing Authority may adopt rules necessary to implement the Elderly Homeowner Equity Loan Program. [PL 1989, c. 581, §18 (NEW).]

1. Asset limitations. The Maine State Housing Authority may adopt rules with respect to asset limitations. At a minimum, the Maine State Housing Authority shall adopt rules restricting real property assets to the principal residence of the applicant. Nothing in this section may preclude from eligibility the permanent residence and land contiguous to that residence, such as a family farm or similar situation.
[PL 1989, c. 581, §18 (NEW).]

2. Counseling of applicants. The Maine State Housing Authority shall, by rule, provide for the counseling of applicants to ensure that the applicants are aware of the advantages, disadvantages, potential risks and other aspects of the program.
[PL 1989, c. 581, §18 (NEW).]

3. Purpose; minimize risk. In adopting rules, the Maine State Housing Authority shall seek to protect the interests of all parties and to minimize their risks.
[PL 1989, c. 581, §18 (NEW).]

4. Federal projects. The Maine State Housing Authority, by rule, may allow for federal pilot projects which may have criteria inconsistent with the criteria in the Elderly Homeowner Equity Loan Program.
[PL 1989, c. 581, §18 (NEW).]

SECTION HISTORY

PL 1989, c. 581, §18 (NEW).

SUBCHAPTER 11

STATE-OWNED LAND FOR HOUSING

§4951. State-owned land for construction of housing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§10,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2017, c. 234, §35 (RP).

§4952. Surplus land in trust

(REPEALED)

SECTION HISTORY

PL 1989, c. 48, §§11,31 (NEW). PL 2007, c. 466, Pt. A, §51 (AMD). PL 2017, c. 234, §35 (RP).

SUBCHAPTER 11-A

ELECTRIC ASSISTANCE

§4961. Electric assistance program

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

A. "Authority" means the Maine State Housing Authority established pursuant to section 4722. [PL 2001, c. 257, §1 (NEW).]

B. "Electric assistance" means assistance as established by the commission pursuant to Title 35-A, section 3214 and rules adopted pursuant to that section, based on an eligible household's income level and electricity usage and paid to an electric utility on behalf of an eligible household. [PL 2001, c. 257, §1 (NEW).]

C. "Electric utility" means a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B. [PL 2001, c. 257, §1 (NEW).]

D. "Eligible household" means a household that is eligible to receive fuel assistance through the Maine State Housing Authority pursuant to section 4722, subsection 1, paragraph W; section 4741, subsection 15; and subchapter XIII and rules adopted pursuant to these laws. "Eligible household" does not include a tenant who resides in subsidized housing and receives a utility allowance or a tenant whose utilities are included in the rent. [PL 2001, c. 257, §1 (NEW).]

E. "Commission" means the Public Utilities Commission established pursuant to Title 35-A, section 103. [PL 2001, c. 257, §1 (NEW).]

F. "Fund" means the Electric Assistance Program Fund established in section 4962. [PL 2001, c. 257, §1 (NEW).]

G. "Program" means the electric assistance program established by the commission pursuant to Title 35-A, section 3214. [PL 2001, c. 257, §1 (NEW).]

[PL 2001, c. 257, §1 (NEW).]

2. Program administration. The authority shall administer the program directly or through regional contract agents. The program may be administered in conjunction with other programs of the authority.

[PL 2001, c. 257, §1 (NEW).]

3. Reporting requirements. The authority shall report annually to the commission information to determine the amount of funding necessary for the program, including the amount of electric assistance paid on behalf of each eligible household, the total amount of electric assistance paid on behalf of eligible households, the number of eligible households served and other reasonably necessary information required by the commission in connection with the program.

[PL 2001, c. 257, §1 (NEW).]

4. Rulemaking. The authority may adopt rules to implement this subchapter. Rules adopted pursuant to this subchapter are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

[PL 2001, c. 257, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 257, §1 (NEW).

§4962. Electric Assistance Program Fund

1. Established. The fund is established under the jurisdiction of the authority.

[PL 2001, c. 257, §1 (NEW).]

2. Sources of the fund. The funds consists of:

A. Funds collected by an electric utility as determined by the commission pursuant to Title 35-A, section 3214; [PL 2001, c. 257, §1 (NEW).]

B. All money appropriated by the State for inclusion in the fund; [PL 2001, c. 257, §1 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends and pecuniary gains from the investment of money in the fund; and [PL 2001, c. 257, §1 (NEW).]

D. All other money deposited in the fund to implement the provisions of this subchapter. [PL 2001, c. 257, §1 (NEW).]

[PL 2001, c. 257, §1 (NEW).]

3. Application of fund. The authority shall apply money in the fund to provide electric assistance for the benefit of eligible households and for other purposes authorized by this subchapter. Money in the fund not currently needed for purposes of this subchapter may be deposited with the authority to the credit of the fund and may be invested as provided by law. The fund may be used by the authority

to pay for the administrative expenses of the fund and operation of the program with the approval of the commission.
[PL 2001, c. 257, §1 (NEW).]

4. Accounts within the fund. The authority may divide the fund into separate accounts as it determines necessary or convenient to accomplish the purposes of this subchapter.
[PL 2001, c. 257, §1 (NEW).]

5. Revolving fund. The fund is a revolving fund. The authority shall continuously apply the money in the fund to accomplish the purposes of this subchapter.
[PL 2001, c. 257, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 257, §1 (NEW).

SUBCHAPTER 12

PRESERVATION OF MODERATE-INCOME AND LOW-INCOME HOUSING CONSTRUCTED WITH FEDERAL ASSISTANCE

§4971. Purpose

The State is experiencing severe shortages of affordable housing in various parts of the State. The affordable housing shortage is contributing to an ever-increasing class of working poor people and creating severe hardships for a significant number of Maine citizens. [PL 1989, c. 48, §§12, 31 (NEW).]

The housing shortage problem may soon be intensified by the conversion of moderate-income and low-income rental housing units into housing for higher income persons and families. Many moderate-income and low-income rental housing units were constructed with federal assistance nearly 20 years ago with an agreement that the mortgagee may pay the mortgage after 20 years and not be subject to any of the restrictions in the initial agreement. As the mortgagees pay the mortgages, it is essential for the State to preserve as much of this housing as possible at affordable costs for the citizens of the State.
[PL 1989, c. 48, §§12, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW).

§4972. Definition

For the purpose of this subchapter, "low-income rental housing" means residential housing projects in which any of the units are subject to federal or state income eligibility restrictions and the rents within the projects are controlled, regulated or assisted by a federal or state agency pursuant to a regulatory or rental assistance agreement. [PL 1993, c. 175, §10 (AMD).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW). PL 1993, c. 175, §10 (AMD).

§4973. Notification of intent to sell

Any person, firm or organization that has a controlling interest in any low-income rental housing may not sell, transfer title or take other action in regard to the property that would result in the termination of financial assistance designed to make a rental unit affordable to low-income or moderate-income people without providing notice, as outlined in subsection 1, to the tenants of that property, the Maine State Housing Authority and the municipal housing authority, if any, for the municipality in which the property is located, as provided in this section. [PL 1993, c. 175, §11 (AMD).]

1. Notice. The notice must be made to the tenants, the Maine State Housing Authority and the municipal housing authority, if any, at least 90 days prior to the owner entering into a contract for the sale or transfer or taking other action in regard to the property that will result in the termination of financial assistance designed to make the rental units affordable to low-income or moderate-income people.
[PL 1993, c. 175, §11 (AMD).]

2. Right of first refusal. The Maine State Housing Authority has the right of first refusal to purchase the property at its current appraised value, as determined by appraisers for the owner and the authority. The authority holds the right of first refusal throughout the 90-day period. Failure to respond to the notice of first refusal within 90 days constitutes a waiver of that right of first refusal by the authority. By stating in writing its intention to pursue its right of first refusal during the 90-day period, the authority has an additional 90 days, beginning on the date the appraised value is determined by the appraisers for the owner and the authority, to buy or to produce a buyer for the property. This additional 90-day period may be extended by mutual agreement between the authority and the owner of the property.

A. Nothing in this section prevents an owner of the property from deciding not to sell, transfer or take other action that would result in termination of the financial assistance and revoking the notice required by subsection 1 at any time before its expiration. The withdrawal or revocation extinguishes any right of first refusal held by the Maine State Housing Authority. [PL 1993, c. 175, §11 (AMD).]

[PL 2017, c. 234, §36 (AMD).]

3. Exceptions. The Maine State Housing Authority may not possess any right of first refusal when a bona fide buyer, by contract with the seller, agrees to maintain the property as low-income housing. The notice provisions of this section apply to this subchapter.
[PL 1993, c. 175, §11 (AMD).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW). PL 1993, c. 175, §11 (AMD). PL 2017, c. 234, §36 (AMD).

§4974. Purchase property; construct housing

The Maine State Housing Authority or any municipal housing authority may purchase or acquire property to preserve or provide affordable housing to moderate-income and low-income people and provide for the management and maintenance of this property. [PL 1989, c. 48, §§12, 31 (NEW).]

1. Construction. The Maine State Housing Authority or any municipal housing authority may construct or reconstruct housing for moderate-income and low-income households.
[PL 1989, c. 48, §§12, 31 (NEW).]

2. Rehabilitation. The Maine State Housing Authority or any municipal housing authority may rehabilitate buildings to provide affordable housing to moderate-income and low-income households.
[PL 1989, c. 48, §§12, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW).

§4975. Provide financing

The Maine State Housing Authority or any municipal housing authority may provide low interest or no interest financing to any person who agrees to construct, reconstruct, rehabilitate or purchase property to provide housing for moderate-income and low-income households. [PL 1989, c. 48, §§12, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW).

§4976. Conversion of property

Any owner or purchaser of low-income rental housing who sells, transfers title or takes other action in regard to that property that would result in the termination of financial assistance designed to make a rental unit affordable to low-income or moderate-income people shall allow the current tenants to remain in the units for 6 months from the date of sale, transfer of title or other action in regard to the property, at the same rents or portion of the total rents charged to the tenants before that sale, transfer of title or other action in regard to the property, or the owner may relocate the tenants to comparable units with comparable rents in accordance with the procedure established by rules of the Maine State Housing Authority. [PL 1993, c. 175, §12 (AMD).]

1. Rules. The Maine State Housing Authority, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, shall adopt rules with respect to relocation standards to be applied under this section. These standards shall include, but are not limited to, assistance with moving expenses and rental assistance payments necessary to maintain comparable rents for the displaced tenants. [PL 1989, c. 48, §§12, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW). PL 1993, c. 175, §12 (AMD).

§4977. Rules

The Maine State Housing Authority may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this subchapter. [PL 1989, c. 48, §§12, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW).

§4978. Penalty

Any person who fails to give notice as provided in this subchapter commits a civil violation for which a penalty of not less than $2,500 may be adjudged. [PL 1989, c. 48, §§12, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW).

§4979. Repeal

(REPEALED)

SECTION HISTORY

PL 1989, c. 48, §§12,31 (NEW). PL 1989, c. 380 (RP).

SUBCHAPTER 12-A

LEAD ABATEMENT

§4981. Lead abatement program

1. Program. The Maine State Housing Authority shall establish and administer a program that provides assistance, including grants, for the abatement of lead paint hazards in residential housing, referred to in this subchapter as "the program." Program funds may be used to match federal funds available for lead abatement. The program is subject to the following conditions.

A. The Maine State Housing Authority shall establish eligibility standards for participation in the program, including, but not limited to, the following.

(1) Housing units or housing projects consisting of households with incomes up to 100% of the area median income as established by the United States Department of Housing and Urban Development, whether the housing is owned by an individual or a for-profit or nonprofit entity, are eligible.

(2) Annual rent for a housing unit or housing project receiving project funds may not exceed 30% of the area median income as established by the United States Department of Housing and Urban Development for 4 years after completion of the abatement work.

(3) Housing that serves as a child care location for children under 6 years of age is eligible as long as the owner has an annual income at or below 100% of the area median income as established by the United States Department of Housing and Urban Development.

The Maine State Housing Authority may adopt the eligibility standards pursuant to this paragraph by routine technical rule as described in Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 460, Pt. M, §1 (NEW).]

B. All lead abatement performed pursuant to the program must comply with industry standards for lead abatement, including pre-abatement inspection and post-abatement inspection of the housing and other standards established by the Department of Environmental Protection. If the pre-abatement inspection identifies the presence of lead in or on the windows, replacement of those windows must be recommended. [PL 2017, c. 460, Pt. M, §1 (NEW).]

C. An owner of housing that receives lead abatement assistance under the program shall pay a portion of the abatement costs as follows:

(1) At least 10% of the costs of abatement; or

(2) At least 25% of the costs of abatement if a child who is a resident of, or who receives child care services in, the housing has been determined to have lead poisoning, as defined in Title 22, section 1315, subsection 5-C. [PL 2017, c. 460, Pt. M, §1 (NEW).]

Priority for program funds must be given to abatement projects for housing in which a child who has been determined to have lead poisoning, as defined in Title 22, section 1315, subsection 5-C, resides. [PL 2017, c. 460, Pt. M, §1 (NEW).]

2. Lead Abatement Fund. The Lead Abatement Fund, referred to in this subchapter as "the fund," is established under the jurisdiction and control of the Maine State Housing Authority. The fund is nonlapsing and must be used to fund the program. The fund consists of funds appropriated or allocated by the Legislature for the purpose of this section and other funds acquired by the Maine State Housing Authority to accomplish the purpose of the program.
[PL 2017, c. 460, Pt. M, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 460, Pt. M, §1 (NEW).

SUBCHAPTER 13

FUEL ASSISTANCE

§4991. Fuel assistance program

The Maine State Housing Authority shall administer a fuel assistance program as provided in this subchapter. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

1. Authority. "Authority" means the Maine State Housing Authority.
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

2. Fuel assistance. "Fuel assistance" means assistance paid to eligible households or to fuel vendors on behalf of an eligible household or directly to eligible tenants who pay heating costs as an undesignated portion of rent.
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

SECTION HISTORY

PL 1991, c. 622, §J23 (NEW). PL 1991, c. 622, §J25 (AFF).

§4992. Administration

The authority may select local program operators as long as they comply with the program operating standards established by the authority by rule in accordance with the Maine Administrative Procedure Act. The authority, by rule, shall provide, at a minimum, the following standards that apply to local program operators and administrators: [PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

1. Accounting and bookkeeping standards. Standards that require generally accepted accounting and bookkeeping procedures that meet the requirements of the Federal Government and the authority;
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

2. Conflict of interest standards. Standards that prohibit conflicts of interest by local program operators and administrators. These standards must, at a minimum, meet the standards that apply to Legislators as defined in Title 1, section 1014;
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

3. Confidentiality standards. Standards requiring the adherence of the local program operators to confidentiality with respect to program recipients;
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

4. Availability standards. Standards requiring local program operators and administrators to be available to the general public for a minimum specified period of time each week; and
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

5. Expeditious provision of assistance standards. Standards that ensure that qualified program recipients are expeditiously provided with assistance by the local program operator or administrator.
[PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

A person who the authority finds to be in violation of the standards adopted by the authority pursuant to this section may be prohibited from acting as a local program operator or administrator of the fuel assistance program. [PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

SECTION HISTORY

PL 1991, c. 622, §J23 (NEW). PL 1991, c. 622, §J25 (AFF).

§4992-A. Fuel Assistance Reserve Fund

1. Fuel Assistance Reserve Fund. If funds are appropriated pursuant to this section, the authority shall use the funds to establish and capitalize the Fuel Assistance Reserve Fund. The authority shall keep the Fuel Assistance Reserve Fund, referred to in this section as the "fund," separate from all other funds managed by the authority and use the fund only under the conditions set forth in this section. The authority shall use the Fuel Assistance Reserve Fund to ensure that fuel assistance benefits for the State's eligible elderly and low-income residents are available prior to the beginning of the heating season.

[PL 1991, c. 858, §1 (NEW).]

2. Timely distribution of benefits. The authority shall make available to local program operators and municipal administrators of the fuel assistance program, at the beginning of each state fiscal year, funds sufficient to cover anticipated fuel assistance payments and program administrative costs for at least the months of July, August and September.
[PL 2001, c. 439, Pt. GG, §1 (AMD).]

3. Conditional use of the fund. The authority's use of the fund is subject to the following conditions and limitations.

A. If the authority reasonably anticipates that federal fuel assistance block grant funds are not available for distribution to the local program operators and municipal administrators by July 1st of each year, the authority shall withdraw and distribute sufficient money from the fund as is necessary for the purposes set forth in this section. The authority may withdraw funds prior to October 1st, provided that those funds are used only for costs incurred on or after July 1st.

Money may not be withdrawn from the fund if sufficient block grant funds are available by July 1st to pay reasonably anticipated fuel assistance program and administrative costs for the months of July, August and September. [PL 2001, c. 439, Pt. GG, §1 (AMD).]

B. Money withdrawn from the fund must be sufficient to cover anticipated fuel assistance payments and fuel assistance program administrative costs for all local program operators and municipal administrators for the months of July, August and September. [PL 2001, c. 439, Pt. GG, §1 (AMD).]

C. The fund may not be used if the authority reasonably anticipates that no federal fuel assistance money will be received. [PL 1991, c. 858, §1 (NEW).]

D. The authority must receive prior written approval from the Federal Government that confirms that state funds withdrawn during a period from July 1st to September 30th may be reimbursed with federal fuel assistance funds received for the federal program year beginning in October of that same year. [PL 2001, c. 439, Pt. GG, §1 (NEW).]
[PL 2001, c. 439, Pt. GG, §1 (AMD).]

4. Recapitalization. If money is withdrawn from the fund for the purposes of this section, the authority shall ensure that the fund is fully recapitalized before the end of the fiscal year in which the funds were appropriated. Recapitalization does not apply in any state fiscal year in which a working capital advance is provided.
[PL 2001, c. 439, Pt. GG, §1 (AMD).]

5. Working capital advance. The State Controller may advance up to $10,000,000 from the General Fund unappropriated surplus beginning July 1, 2002 to the Fuel Assistance Reserve Fund during any state fiscal year, if requested in writing by the Director of the Maine State Housing Authority, to be used to provide cash necessary to ensure that fuel assistance benefits for the State's eligible elderly and low-income applicant households will be available prior to the beginning of the heating season. These funds must be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor. Subject to the availability of federal fuel assistance block grant funds, these funds must be returned to the General Fund before the close of the state fiscal year in which the advance was made. The State Controller shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs within 30 days of making any working capital advance for this purpose.
[PL 2001, c. 439, Pt. GG, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 858, §1 (NEW). PL 2001, c. 439, §GG1 (AMD).

§4993. Penalty

A person who knowingly uses, transfers, acquires or possesses fuel provided through fuel assistance in any manner not authorized by this subchapter or the rules issued under this subchapter commits a Class E crime. [PL 1991, c. 622, Pt. J, §23 (NEW); PL 1991, c. 622, Pt. J, §25 (AFF).]

SECTION HISTORY

PL 1991, c. 622, §J23 (NEW). PL 1991, c. 622, §J25 (AFF).

§4994. Heating oil price increases

1. Initial trigger. If home heating oil prices increase more than 40% in any 14-day period during the home heating season, the authority shall immediately:

A. Estimate funds needed to provide adequate assistance to residents eligible at that time to receive fuel assistance under this subchapter; and [PL 1999, c. 758, §4 (NEW).]

B. Notify the Governor, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, 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 appropriations and financial affairs of the estimated funding need. [PL 1999, c. 758, §4 (NEW).]

[PL 1999, c. 758, §4 (NEW).]

2. Higher trigger. If home heating oil prices increase more than 50% in any 14-day period during the home heating season, the authority shall immediately:

A. Estimate funds needed to provide adequate assistance:

(1) To residents eligible at that time to receive fuel assistance under this subchapter; and

(2) To residents not eligible at that time to receive fuel assistance under this subchapter but who, as a result of the oil price increase, require fuel assistance under this subchapter; and [PL 1999, c. 758, §4 (NEW).]

B. Notify the Governor, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, 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 appropriations and financial affairs of the estimated funding need. [PL 1999, c. 758, §4 (NEW).]

[PL 1999, c. 758, §4 (NEW).]

SECTION HISTORY

PL 1999, c. 758, §4 (NEW).

CHAPTER 201-A

MAINE INDIAN HOUSING AUTHORITY

§4995. Create respective tribal housing authorities

The Passamaquoddy Tribe and the Penobscot Nation, as provided in Title 5, section 12004-I, and the Houlton Band of Maliseet Indians are authorized to create respective tribal housing authorities. The respective tribe, nation or band shall prescribe the manner of selection of the members, their terms and grounds for removal. Except as otherwise provided in this chapter or clearly indicated otherwise, the Maine Housing Authorities Act applies to the tribal housing authorities referred to in this chapter as "authority" or "authorities." The power of tribal housing authorities may be exercised only within the

Indian territory of the respective tribe or nation or the trust land of the Houlton Band of Maliseet Indians. Tribal housing authorities are in substitution for any tribal housing authority previously existing under the laws of the State and assume all the rights and obligations of those predecessor housing authorities. The presently constituted tribal housing authority of the respective tribe or nation continues in existence and may exercise all the authority previously vested by law until the respective tribe or nation creates the tribal housing authority authorized by this section. [PL 2009, c. 415, Pt. B, §9 (AMD).]

SECTION HISTORY

PL 1993, c. 738, §C7 (NEW). PL 2009, c. 415, Pt. B, §9 (AMD).

CHAPTER 202

AFFORDABLE HOUSING PARTNERSHIP

§5001. Title

This chapter shall be known and may be cited as the "Affordable Housing Partnership Act of 1989." [PL 1989, c. 601, Pt. B, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW).

SUBCHAPTER 1

ADMINISTRATION AND IMPLEMENTATION

§5002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 601, Pt. B, §4 (NEW).]

1. Advisory committee.

[PL 1993, c. 359, Pt. B, §3 (RP).]

2. Affordable housing. "Affordable housing" means decent, safe and sanitary dwellings, apartments or other living accommodations for low-income and moderate-income households. The Maine State Housing Authority may define "affordable housing" by rule. Affordable housing includes, but is not limited to:

A. Government-assisted housing; [PL 1989, c. 601, Pt. B, §4 (NEW).]

B. Housing for low-income and moderate-income families; [PL 1989, c. 601, Pt. B, §4 (NEW).]

C. Manufactured housing; [PL 1989, c. 601, Pt. B, §4 (NEW).]

D. Multifamily housing; and [PL 1989, c. 601, Pt. B, §4 (NEW).]

E. Group and foster care facilities. [PL 1989, c. 601, Pt. B, §4 (NEW).]
[PL 1991, c. 610, §4 (AMD).]

3. Authority or state authority. "Authority" or "state authority" means the Maine State Housing Authority.
[PL 1989, c. 601, Pt. B, §4 (NEW).]

4. Commissioner.

[PL 1991, c. 610, §5 (RP).]

4-A. Council. "Council" means the Statewide Homeless Council.
[PL 2005, c. 380, Pt. B, §4 (NEW).]

5. Department.

[PL 1991, c. 610, §5 (RP).]

6. Homeless. "Homeless" means:

A. A person or family that lacks, or is in imminent danger of losing legal access to, a fixed, regular and adequate nighttime residence; or [PL 1989, c. 601, Pt. B, §4 (NEW).]

B. A person or family that has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters and transitional housing for persons with mental illness or substance use disorder;

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. [PL 2017, c. 407, Pt. A, §121 (AMD).]
[PL 2017, c. 407, Pt. A, §121 (AMD).]

7. Homestead land trust.
[PL 2017, c. 234, §37 (RP).]

8. Housing alliance or alliance.

[PL 1991, c. 610, §6 (RP).]

9. Interagency task force.

[PL 2005, c. 380, Pt. B, §5 (RP).]

10. Land trust.
[PL 2017, c. 234, §37 (RP).]

11. Lower income households. "Lower income households" means low-income and very low-income households as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.
[RR 2017, c. 1, §26 (COR).]

12. Moderate income households. "Moderate income households" means households in which gross income does not exceed 150% of the median income of the county or metropolitan statistical area in which the household is located.
[PL 1989, c. 601, Pt. B, §4 (NEW).]

13. Nonprofit housing corporation.
[PL 2017, c. 234, §37 (RP).]

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1989, c. 875, §§M11,13 (AMD). PL 1991, c. 610, §§3-6 (AMD). PL 1993, c. 359, §B3 (AMD). PL 2005, c. 380, §§B4,5 (AMD). RR 2017, c. 1, §26 (COR). PL 2017, c. 234, §37 (AMD). PL 2017, c. 407, Pt. A, §121 (AMD).

§5003. Findings and purpose

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §7 (AMD). PL 2017, c. 234, §38 (RP).

§5004. Administration and implementation

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §8 (RP).

§5005. Report to the Governor and Legislature

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §8 (RP).

§5006. Coordination and cooperation

All state agencies and independent state agencies shall cooperate with the authority with respect to the implementation of this chapter. Whenever possible, all state agencies and independent state agencies shall coordinate their resources and activities with those of the state authority to address the affordable housing crisis. [PL 1991, c. 610, §9 (AMD).]

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §9 (AMD).

SUBCHAPTER 2

ASSISTANCE TO MUNICIPALITIES

§5011. Administration and implementation

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §9 (AMD). PL 2017, c. 234, §39 (RP).

§5012. Powers

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §§10,11 (AMD). PL 2017, c. 234, §39 (RP).

§5013. Duties

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §§12,13 (AMD). PL 2017, c. 234, §39 (RP).

§5014. Nonlapsing revolving loan fund

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §14 (AMD). PL 2017, c. 234, §39 (RP).

SUBCHAPTER 3

NONPROFIT HOUSING CORPORATIONS AND AFFORDABLE HOUSING

§5021. Program administration

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §15 (AMD). PL 2017, c. 234, §39 (RP).

§5022. Office of Nonprofit Housing

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 2017, c. 234, §39 (RP).

§5023. Powers

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §16 (AMD). PL 2005, c. 380, §B6 (AMD). PL 2017, c. 234, §39 (RP).

§5024. Duties

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 2017, c. 234, §39 (RP).

§5025. Eligibility requirements

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 2017, c. 234, §39 (RP).

SUBCHAPTER 4

LAND ACQUISITION PROGRAM

§5031. Administration and implementation

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §17 (AMD). PL 2005, c. 380, §B7 (AMD). PL 2017, c. 234, §39 (RP).

§5032. Use of money

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 574, §4 (AMD). PL 2017, c. 234, §39 (RP).

§5033. Awards of grants and loans

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §17 (AMD). PL 1991, c. 824, §A62 (AMD). PL 2017, c. 234, §39 (RP).

§5034. Preservation of land for affordable housing

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §17 (AMD). PL 2017, c. 234, §39 (RP).

§5035. Maine Affordable Housing Land Trust Fund

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 574, §5 (AMD). PL 2017, c. 234, §39 (RP).

§5036. Municipal Land Acquisition Revolving Fund

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §17 (AMD). PL 2017, c. 234, §39 (RP).

SUBCHAPTER 5

INTERAGENCY TASK FORCE ON HOMELESSNESS AND HOUSING OPPORTUNITIES

§5041. Task force created

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §17 (AMD). PL 2005, c. 380, §A1 (RP).

§5042. Membership; appointment; terms of office; compensation

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1989, c. 700, §A128 (AMD). PL 1991, c. 610, §18 (AMD). PL 1991, c. 780, §DDD15 (AMD). PL 1993, c. 292, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 552, §1 (AMD). PL 2001, c. 354, §3 (AMD). PL 2005, c. 380, §A1 (RP).

§5043. Chair

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 2005, c. 380, §A1 (RP).

§5044. Duties

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §19 (AMD). PL 1997, c. 552, §2 (AMD). PL 1997, c. 643, §§XX1-3 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 380, §A1 (RP).

§5045. Advisory committee established

(REPEALED)

SECTION HISTORY

RR 1991, c. 1, §42 (COR). PL 1991, c. 610, §20 (NEW).

SUBCHAPTER 5-A

STATEWIDE HOMELESS COUNCIL

§5046. Statewide Homeless Council created

The Statewide Homeless Council, established in accordance with Title 5, chapter 379, shall serve as an advisory committee with respect to the administration and implementation of this chapter to the state authority, the Governor and the Legislature. [PL 2005, c. 380, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 380, §A2 (NEW).

§5047. Membership; appointment; terms of office; chair

1. Membership; chair. The council consists of 14 members appointed as follows:

A. Six members appointed by the Governor, 2 from each of 3 regional homeless councils, based on nominations provided by the 3 regional homeless councils; [PL 2005, c. 380, Pt. A, §2 (NEW).]

B. The Director of the Maine State Housing Authority or the director's designee; [PL 2017, c. 234, §40 (AMD).]

C. Three members appointed jointly by the President of the Senate and the Speaker of the House, one from each of 3 regional homeless councils, based on nominations provided by the 3 regional homeless councils; [PL 2007, c. 600, §2 (AMD).]

D. One member representing the Office of the Governor, who serves as the chair; [PL 2007, c. 600, §2 (AMD).]

E. The Commissioner of Health and Human Services or the commissioner's designee; [PL 2015, c. 465, Pt. B, §1 (AMD).]

F. The Commissioner of Corrections or the commissioner's designee; and [PL 2015, c. 465, Pt. B, §1 (AMD).]

G. The Director of the Maine Bureau of Veterans' Services or the director's designee. [PL 2015, c. 465, Pt. B, §1 (NEW); PL 2019, c. 377, §6 (REV).]

[PL 2017, c. 234, §40 (AMD); PL 2019, c. 377, §6 (REV).]

2. Term of office. Members of the council appointed jointly by the President of the Senate and the Speaker of the House serve 3-year terms and serve at the pleasure of the President of the Senate and the Speaker of the House. Members of the council appointed by the Governor serve 2-year terms and serve at the pleasure of the Governor.

A. Members serve until their successors are appointed and qualified. [PL 2005, c. 380, Pt. A, §2 (NEW).]

B. The appointing authorities shall fill a vacancy for the balance of an unexpired term in the same manner as the appointment was originally filled, except as otherwise provided. [PL 2005, c. 380, Pt. A, §2 (NEW).]

[RR 2013, c. 2, §38 (COR).]

3. Staff. The state authority shall provide staff support to the council.

[PL 2005, c. 380, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 380, §A2 (NEW). PL 2007, c. 600, §2 (AMD). RR 2013, c. 2, §38 (COR). PL 2015, c. 465, Pt. B, §1 (AMD). PL 2017, c. 234, §40 (AMD). PL 2019, c. 377, §6 (REV).

§5048. Duties

The council shall advise the state authority with respect to the implementation of this chapter and the development of affordable housing. The council shall: [PL 2005, c. 380, Pt. A, §2 (NEW).]

1. Provide leadership. Provide leadership in efforts to end homelessness and provide support to the regional homeless councils by ensuring access to senior-level government officials and the Office of the Governor;

[RR 2015, c. 2, §20 (COR).]

2. Educate. Develop and coordinate an education campaign regarding homelessness;

[PL 2005, c. 380, Pt. A, §2 (NEW).]

3. Serve as coordinator of information. Serve as a coordinator of information and communication among state agencies and among the state, municipal and private sectors with respect to this chapter. In carrying out this duty, the council shall:

A. Review proposed legislative changes, system changes and resource recommendations from the regional homeless councils and compile the regional reports into a single statewide report; and [PL 2005, c. 380, Pt. A, §2 (NEW).]

B. Serve as a liaison with the federal Interagency Council on Homeless and recommend any necessary changes; [PL 2005, c. 380, Pt. A, §2 (NEW).]

[PL 2005, c. 380, Pt. A, §2 (NEW).]

4. Assess statewide needs. With assistance from regional homeless councils, develop estimates of statewide resource needs;

[PL 2005, c. 380, Pt. A, §2 (NEW).]

5. Identify potential resources. Identify new funding opportunities through private and public sources and assist in disseminating this information to regional homeless councils along with available grant opportunities;

[PL 2005, c. 380, Pt. A, §2 (NEW).]

6. Assistance to homeless. In cooperation with the state authority, identify the resources available to and ways to increase access to services to the homeless and persons with special needs, identify the gaps in delivery services to this population and make recommendations concerning the policies and programs serving this population;

[PL 2007, c. 600, §3 (AMD).]

7. Review, monitor and implement plans. On an annual basis, review and comment on plans submitted pursuant to Title 34-B, section 1221 and propose amendments and updates to and implement a plan to end homelessness;

[PL 2015, c. 465, Pt. B, §2 (AMD).]

8. Advise departments. Advise the Department of Corrections and the Department of Health and Human Services on issues related to homelessness and other issues related to the duties of the council; and
[PL 2015, c. 465, Pt. B, §3 (AMD).]

9. Develop strategic plan regarding homelessness among veterans. Develop strategies to enhance coordination and communication among agencies and organizations that provide services that seek to place veterans in permanent housing and that seek to improve access to services known to support housing stability for veterans who are experiencing homelessness or veterans who are at risk of homelessness. The council shall develop and periodically review a strategic plan that:

A. Establishes a baseline for homelessness in the State from which improvements can be measured. In determining the baseline, the council is not required to use the federal definition of homelessness and may include levels of housing instability or ranges of homelessness; [PL 2015, c. 465, Pt. B, §4 (NEW).]

B. Develops a method of measuring homelessness among veterans in the State to demonstrate whether efforts to reduce the number of homeless veterans in the State have been successful; [PL 2015, c. 465, Pt. B, §4 (NEW).]

C. Identifies specific processes for improving communication among agencies that provide services to veterans, including services unrelated to homelessness, that will facilitate identification of veterans in need of housing assistance or veterans who may be at risk of homelessness and maximize resources available to address homelessness among veterans; and [PL 2015, c. 465, Pt. B, §4 (NEW).]

D. Develops a framework and timeline for determining progress of communication and coordination efforts targeting homelessness among veterans and the effectiveness of those efforts in reducing homelessness among veterans. [PL 2015, c. 465, Pt. B, §4 (NEW).]

The Director of the Maine Bureau of Veterans' Services shall periodically report to the council regarding the progress of implementing the strategies described in this subsection. Beginning February 1, 2018, the director shall report annually to the joint standing committee of the Legislature having jurisdiction over veterans affairs on the implementation of the strategic plan. The report must include, but is not limited to, the effect of the strategic plan on homelessness among veterans based on the measurements required to be established by this subsection.
[PL 2015, c. 465, Pt. B, §4 (NEW); PL 2019, c. 377, §6 (REV).]

SECTION HISTORY

PL 2005, c. 380, §A2 (NEW). PL 2007, c. 600, §§3-5 (AMD). RR 2015, c. 2, §20 (COR). PL 2015, c. 465, Pt. B, §§2-4 (AMD). PL 2019, c. 377, §6 (REV).

SUBCHAPTER 6

HOUSING OPPORTUNITY ZONES

§5051. Administration and implementation

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §21 (AMD). PL 2005, c. 380, §B8 (AMD). PL 2017, c. 234, §41 (RP).

§5052. Designation of urban housing zones

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §21 (AMD). PL 2005, c. 380, §B9 (AMD). PL 2017, c. 234, §41 (RP).

§5053. Powers

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §21 (AMD). PL 2005, c. 380, §B10 (AMD). PL 2017, c. 234, §41 (RP).

§5054. Duties of state authority

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). RR 1991, c. 2, §115 (COR). PL 1991, c. 610, §§22,23 (AMD). PL 2005, c. 380, §§B11,12 (AMD). PL 2017, c. 234, §41 (RP).

§5055. Models for urban housing revitalization; evaluation

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 1991, c. 610, §24 (AMD). PL 1991, c. 871, §6 (AMD). PL 2005, c. 380, §B13 (AMD). PL 2017, c. 234, §41 (RP).

§5056. Integrated housing

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §B4 (NEW). PL 2017, c. 234, §41 (RP).

CHAPTER 202-A

AFFORDABLE HOUSING UTILITY FEES

§5061. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 174, §2 (NEW).]

1. Affordable housing unit. "Affordable housing unit" means an owner-occupied, single-family dwelling unit or condominium unit for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development. [PL 2007, c. 174, §2 (NEW).]

2. Connection fee. "Connection fee" means a one-time fee or charge for the establishment of water or sewer service that is directly related to the actual cost of installation of such service. [PL 2007, c. 174, §2 (NEW).]

3. Consumer-owned water utility. "Consumer-owned water utility" has the same meaning as in Title 35-A, section 6101. [PL 2007, c. 174, §2 (NEW).]

4. Impact fee. "Impact fee" means a one-time fee or charge associated with the establishment of water or sewer service that is related to the impact of such service on system capacity and that is collected to offset future costs associated with system growth.
[PL 2007, c. 174, §2 (NEW).]

5. Sewer utility. "Sewer utility" means a municipal sewer department, a sewer district as defined in Title 38, section 1032, subsection 3 or 4 or a sanitary district formed under Title 38, chapter 11.
[PL 2013, c. 555, §4 (AMD).]

SECTION HISTORY

PL 2007, c. 174, §2 (NEW). PL 2013, c. 555, §4 (AMD).

§5062. Reduced fees; affordable housing

The governing body of a consumer-owned water utility or a sewer utility, referred to in this section as "the governing body," may charge a lower impact fee or connection fee than its usual impact fee or connection fee for the establishment of service to a newly constructed affordable housing unit or units.
[PL 2007, c. 174, §2 (NEW).]

1. Uniform application. If the governing body elects to charge a reduced impact fee or connection fee under this section, it must apply the reduced fee uniformly to all similarly situated applicants for the reduced fee within the utility's service territory.
[PL 2007, c. 174, §2 (NEW).]

2. Credit to purchaser. Any reduction in the impact fee or connection fee pursuant to this section must be credited to the purchaser of the affordable housing unit.
[PL 2007, c. 174, §2 (NEW).]

3. Ratepayer notification; cost allocation. The governing body shall notify ratepayers in a timely manner of any reduction in the impact fee or connection fee pursuant to this section. The governing body may allocate the cost of the reduced impact fee or connection fee among all ratepayers.
[PL 2007, c. 174, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 174, §2 (NEW).

CHAPTER 203

URBAN RENEWAL

§5101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Authority or Urban Renewal Authority. "Authority" or "Urban Renewal Authority" means a public body corporate, and politic, created under this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Blighted area. "Blighted area" means:

A. An area in which there is a predominance of buildings or improvements which are conducive to ill health, the transmission of disease, infant mortality or juvenile delinquency and crime and are detrimental to the public health, safety, morals or welfare because of:

(1) Dilapidation, deterioration, age or obsolescence;

(2) Inadequate provision for ventilation, light, air, sanitation or open spaces;

(3) High density of population and overcrowding;

(4) The existence of conditions which endanger life or property by fire and other causes; or

(5) Any combination of these factors; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An area which is a menace to the public health, safety, morals or welfare in its present condition and use because of:

(1) The predominance of inadequate street layout;

(2) Insanitary or unsafe conditions;

(3) Tax or special assessment delinquency exceeding the fair value of the land;

(4) The existence of conditions which endanger life or property by fire and other causes; or

(5) Any combination of these factors; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Undeveloped vacant land as provided in section 5109; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Any disaster area as provided in section 5109. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bonds. "Bonds" means any bonds, including refunding bonds, notes, interim certificates, debentures or other obligations under this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Obligee. "Obligee" means:

A. Any bondholder or an agent or trustee for any bondholders; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any lessor who demises property used in connection with an urban renewal project to the authority, or any assignee of all or part of the lessor's interest; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The Federal Government when it is a party to any contract with the authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Owner. "Owner" means a person having an estate, interest or easement in real property or a lien, charge or encumbrance on that property.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Public body. "Public body" means the State, or any agency or instrumentality of the State, or any board, commission, authority or district within the territorial boundaries of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Real property. "Real property" means:

A. All lands, including improvements and fixtures on the land; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Property of any nature appurtenant to the land or used in connection with the land; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Every estate, interest and right, legal or equitable, in the land. This includes terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by those liens. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Redeveloper. "Redeveloper" means any person that enters or proposes to enter into a redevelopment contract.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Redevelopment contract. "Redevelopment contract" means a contract entered into between the authority and a redeveloper for the redevelopment of an area in conformity with an urban renewal plan.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Slum area. "Slum area" means a blighted area in an extreme state of deterioration and decay.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Urban renewal plan or renewal plan. "Urban renewal plan" or "renewal plan" means a plan, as it exists from time to time, for an urban renewal project. Except as provided in section 5109, this plan must conform to the comprehensive plan as set forth in sections 4502, 4503 and 4551. It must be sufficiently complete to indicate:

A. Any land acquisition, demolition and removal of structures, redevelopment, improvements and rehabilitation that is proposed to be carried out in the urban renewal area; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Zoning and planning changes, if any, land uses, maximum densities, building requirements; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The plan's relationship to definite local objectives concerning appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Urban renewal project or renewal project. "Urban renewal project" or "renewal project" means the undertakings and activities of the authority in an urban renewal area for the elimination and prevention of the development or spread of slums and blight. The undertaking and activities may involve slum clearance and redevelopment, rehabilitation or conservation, or any combination of these activities in all or part of an urban renewal area in accordance with an urban renewal plan. These undertakings and activities may include:

A. Acquisition of a slum area or a blighted area or portion of such an area; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Demolition and removal of buildings and improvements; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the urban renewal area the objectives of this chapter in accordance with the urban renewal plan; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Disposition of any property acquired in the urban renewal area at its fair value for uses in accordance with the urban renewal plan, including the sale, initial leasing or retention of property by the municipality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5102. Creation of authority

A municipality may create an Urban Renewal Authority under this chapter as follows. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Resolution. No municipality may exercise the authority conferred upon municipalities by this chapter until its municipal officers have adopted a resolution finding that:

A. One or more slums or blighted areas exist in the municipality; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The rehabilitation, conservation, redevelop- ment, or a combination of these activities, of the area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Question for voters. After making this finding, the municipal officers may submit the following question to the voters at any regular or special election or town meeting in accordance with the municipal charter or section 2528:

"Shall the municipality adopt the provisions of the urban renewal law, Maine Revised Statutes, Title 30-A, chapter 203, and authorize the establishment of an Urban Renewal Authority?"

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Favorable vote. If a majority of the ballots cast on this question favor acceptance, this law becomes effective immediately upon declaration of the vote by the municipal officers, provided the total number of votes cast for and against the acceptance of the Act equals or exceeds 20% of the total votes cast in the municipality for all candidates for Governor at the last gubernatorial election.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Certificate of result; failure and resubmission of question. The municipal officers shall declare the result of this election. The municipal clerk shall file a certificate of the result with the Secretary of State.

A. Failure of approval does not prevent the municipal officers from again submitting the question to the voters of the municipality in the manner provided. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, Pt. A, §2 (NEW). PL 1987, c. 737, Pt. C, §106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD).

§5103. Organization

There is created in each municipality that adopts section 4802 a public body corporate and politic to be known as the "Urban Renewal Authority" of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Board of trustees. The municipal officers shall appoint a board of 5 trustees of the Urban Renewal Authority. The term of office of a trustee is 5 years, but initial appointments shall be made for one, 2, 3, 4 and 5 years respectively. Any person may be appointed as trustee if that person resides within the municipality and is otherwise eligible for appointment under this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Expenses; term of office. A trustee shall receive no compensation for services but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of duties. Each trustee shall hold office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any trustee shall be filed with the municipal clerk. This certificate is conclusive evidence of the due and proper appointment of the trustee.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Quorum; powers. The trustees of the authority shall exercise the powers of the Urban Renewal Authority. A majority of the trustees constitutes a quorum for the purpose of conducting business, exercising the powers of the authority and for all other purposes. The authority may take action upon a vote of a majority of the trustees present.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Officers; employees. The trustees shall elect a chairman and vice-chairman from among their number. The authority may employ an executive director, technical experts and any other agents and employees, permanent and temporary, that it requires and determine their qualifications, duties and compensation. For any legal service that it requires, the authority may employ or retain its own counsel and legal staff.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Annual report. An authority authorized to transact business and exercise powers under this chapter shall file, with the municipal legislative body, by January 31st of each year, a report of its activities for the preceding calendar year. This report must include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of the calendar year. When the report is filed, the authority shall publish in a newspaper having general circulation in the municipality a notice that the report has been filed with the municipality and that the report is available for inspection during business hours in the office of the municipal clerk.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Removal from office; hearing. The municipal officers may, after a hearing, remove a trustee from office for inefficiency, neglect of duty or misconduct in office. The trustee must be given a copy of the charges at least 10 days before the hearing and an opportunity to be heard in person or to be represented by counsel at the hearing.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5104. Powers

The authority shall exercise public and essential governmental functions, and have all the powers necessary to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others granted in this chapter: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. General powers. The authority shall have the following general powers:

A. To sue and to be sued; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To have and alter a seal at pleasure; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To have perpetual succession; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. To make and execute contracts and other instruments necessary or convenient to the exercise of the authority's powers; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. To make and from time to time amend and repeal bylaws and regulations not inconsistent with this chapter, to carry out this chapter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Plans and projects; issue bonds. To undertake and carry out urban renewal plans and urban renewal projects, including the authority to acquire and dispose of property, to issue bonds and other obligations, to borrow and accept grants from the Federal Government or other source and to exercise the other powers which this chapter confers on an authority with respect to urban renewal projects;

A. In connection with the planning and undertaking of any urban renewal plan or urban renewal project, the authority, the municipality and all public and private officers, agencies and bodies have all the rights, powers, privileges and immunities which they have with respect to a redevelopment plan or redevelopment project, in the same manner as though all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project also applied to an urban renewal plan or urban renewal project. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In addition to the surveys and plans which the authority is otherwise authorized to make, the authority is specifically authorized to prepare:

(1) Plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) Urban renewal plans and preliminary plans outlining urban renewal activities for neighborhoods to embrace 2 or more urban renewal areas;

(3) Plans for the enforcement of laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and

(4) Plans for the relocation of persons, including families, business concerns and others, displaced by an urban renewal project, and to make relocation payments to or with respect to those persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of those payments financed by the Federal Government; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106

(NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Slums and urban blight. To develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and elimination of slums and urban blight;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Borrow money; assistance. To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, the municipality or other public body, or from any sources, public or private, for the purposes of this chapter, to give any security that is required and to enter into and carry out contracts in connection with that financial assistance;

A. The authority may include in any contract for financial assistance with the Federal Government, for an urban renewal project, any conditions imposed under federal law that the authority considers reasonable and appropriate and which are not inconsistent with the purposes of this chapter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Surveys, appraisals, studies and plans. Within its area of operation, to make or have made by the planning board or other agency, public or private, all surveys, appraisals, studies and plans, including the preparation of a community renewal program for the municipality, necessary to carry out the purposes of this chapter, and to contract or cooperate with all persons or agencies, public or private, in the making and carrying out of these surveys, appraisals, studies and plans;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Acquisition. With the approval of the legislative body of the municipality, before an urban renewal plan is approved, or before any modifications of the plan are approved, to acquire real property, in an urban renewal area, demolish and remove any structures on the property and pay all costs related to the acquisition, demolition or removal, including any administrative or relocation expenses;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Relocation of families. To prepare plans and provide reasonable assistance for the relocation of families displaced from an urban renewal project area to permit the carrying out of the urban renewal project, to the extent essential for acquiring possession of, rehabilitating and clearing the urban renewal project area or parts of that area; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Expenditures. To make any expenditures that are necessary to carry out the purposes of this chapter and to make expenditures from funds obtained from the Federal Government, except insofar as conditions are prescribed for this purpose by the municipal officers.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5105. Workable program

1. Goals of program. For the purposes of this chapter, the authority may formulate for the municipality a workable program for using appropriate private and public resources to:

A. Eliminate and prevent the development or spread of slums and urban blight; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Encourage needed urban rehabilitation; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Provide for the redevelopment of slum and blighted areas; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Undertake any of these activities or other feasible municipal activities that are suitably employed to achieve the objectives of the workable program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Provisions of program. The workable program may provide for, but is not limited to:

A. The prevention of the spread of blight into areas of the municipality which are free from blight through the diligent enforcement of housing, zoning and occupancy controls and standards; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The clearance and redevelopment of slum and blighted areas or portions of those areas; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The rehabilitation or conservation of slum and blighted areas or portions of those areas by:

(1) Replanning, removing congestion, providing parks, playgrounds and other public improvements;

(2) Encouraging voluntary rehabilitation; and

(3) Compelling the repair and rehabilitation of deteriorated or deteriorating structures. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5106. Preparation and approval of renewal plans

The authority may not acquire real property for a renewal project unless the municipal officers of the municipality have approved the renewal plan by resolution, as prescribed in this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Comprehensive plan. The authority shall not recommend an urban renewal plan to the municipal officers until a comprehensive plan in substance for the development of the municipality has been prepared under chapter 191.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Urban renewal plan. The authority may prepare or have prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the authority. An urban renewal plan must be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements and the proposed land uses and building requirements in the urban renewal area, and must include, but is not limited to:

A. The boundaries of the urban renewal area, with a map showing the existing uses and conditions of the real property in the urban renewal area; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A land use plan showing proposed uses of the area; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Information showing the standards of population densities, land coverage and building intensities in the area after renewal; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. A statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, building codes and ordinances; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. A site plan of the area; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. A statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Recommendations by planning board. Before recommending an urban renewal plan to the municipal officers for approval, if the plan has not been prepared by the planning board, the authority shall submit the plan to the planning board for review and recommendations as to its conformity with the comprehensive plan. The planning board shall submit its written recommendations with respect to the proposed renewal plan to the authority within 45 days after receiving the plan for review.

The authority may recommend the renewal plan to the municipal officers for approval upon receipt of the recommendations. If no recommendations are received within the 45-day period allowed in this subsection, the authority may recommend the renewal plan to the municipal officers for approval without the planning board's recommendations.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Whether plan accomplishes certain purposes. Before recommending an urban renewal plan to the municipal officers for approval, the authority shall consider whether the proposed land uses and building requirements in the renewal project area are designed with the general purpose of accomplishing, in conformity with the comprehensive plan, a coordinated, adjusted and harmonious development of the municipality which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for:

A. Traffic and vehicular parking; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The promotion of safety from fire, panic and other dangers; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Light and air; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The promotion of the healthful and convenient distribution of population; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Transportation, water, sewerage and other public utilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Schools, parks, recreational and community facilities and other public requirements; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The promotion of sound design and arrangement; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. The wise and efficient expenditure of public funds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. The prevention of the recurrence of insanitary or unsafe dwelling accommodations, slums or conditions of blight; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. Adequate, safe and sanitary dwelling accommodations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Recommendation by authority accompanied by recommendation of planning board. The recommendation of an urban renewal plan by the authority to the municipal officers shall be accompanied by:

A. The recommendations, if any, of the planning board concerning the renewal plan; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the renewal project area and the estimated proceeds or revenues from its disposal to redevelopers; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A statement of the proposed method of financing the urban renewal project; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. A statement of a feasible method proposed for the relocation of families to be displaced from the urban renewal area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Public hearing; notice. The municipal officers shall hold a public hearing on an urban renewal plan after reasonable public notice, but not less than 7 days, by publication in a newspaper having general circulation in the area of operation of the municipality. The notice must:

A. Describe the time, date, place and purpose of the hearing; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Generally identify the renewal area covered by the plan; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Outline the general scope of the urban renewal project under consideration. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Approval of renewal plan; disapproval. Following the hearing under subsection 6, the municipal officers may approve by resolution a renewal plan if they find that the plan is feasible and in conformity with the comprehensive plan. If the planning board disapproves any renewal plan, the plan must be approved by a 2/3 vote of the municipal officers. A renewal plan which was not approved by the municipal officers when recommended by the authority may again be recommended to them with any modifications considered advisable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Modification of renewal plan. The authority may modify an urban renewal plan at any time, provided that, if modified after the lease or sale of real property in the redevelopment project area, the modification is consented to by the redeveloper or redevelopers of that real property or their successor or successors in interest affected by the proposed modification. Where the proposed modification will substantially change the urban renewal plan as previously approved by the municipal officers, the modification must similarly be approved by the municipal officers under subsection 7.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5107. General neighborhood renewal plans

Any authority authorized to perform planning work may prepare a general neighborhood renewal plan for urban renewal areas which are of such scope that urban renewal activities may have to be carried out in stages. A general neighborhood renewal plan must conform to the comprehensive plan and the workable program of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Contents of plan. The plan may include, but is not limited to, a preliminary plan which:

A. Outlines the urban renewal activities proposed for the area involved; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Provides a framework for the preparation of urban renewal plans; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Indicates generally the land uses, population density, building coverage, prospective requirements for rehabilitation and improvement of property and portions of the area contemplated for clearance and redevelopment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5108. Eminent domain

The authority may acquire all or any part of the real property within the renewal project area by the exercise of the power of eminent domain whenever the authority determines that the acquisition of the real property is in the public interest or necessary for the public use. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Resolution; documents filed; damages determined. The necessity for this acquisition is conclusively presumed upon the authority's adoption of a resolution declaring that the acquisition of the real property described in the resolution is in the public interest and necessary for the public use and that the real property is included in an approved urban renewal project under this chapter.

A. Within 3 months after this resolution is adopted, the authority shall have filed in the county registry of deeds:

(1) A copy of the authority's resolution;

(2) A plat of the real property described; and

(3) A statement, signed by the chairman of the authority, that the real property is taken under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When these materials are filed, the authority shall determine the damages for the real property taken in the same manner as provided for land taken for highway purposes under Title 23, chapter 3, and shall file a statement of this determination in the Superior Court of the county. [PL 1987,

c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Title vests in authority; bonds deposited. Title to the real property shall vest in the authority in fee simple absolute and the authority may take possession of the real property when:

A. The copy of the resolution, plat and statement is filed in the registry of deeds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The statement is filed in the Superior Court; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Bonds, to the use of persons entitled to them, are deposited in the Superior Court with surety satisfactory to the clerk of the court in the amounts that the court determines to be sufficient to satisfy the claims of all persons interested in the real property. The court may, in its discretion, take evidence on the question to determine the amounts of the bonds to be deposited. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Service on owners; nonresidents; unknown owners. After the copy, plat and statement are filed, a sheriff or the sheriff's deputies shall serve notice of the taking of the real property upon the owners of the real property by leaving a true and attested copy of the description and statement with each of these persons personally or at their last and usual place of abode in the State or with some person living there.

A. If any of these persons are not residents of the State, a true and attested copy of the notice shall be sent by registered mail, return receipt requested, to those persons at their last known addresses. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If the ownership of the real property cannot be ascertained after due and diligent search, an award shall be made to persons unknown for the value of the property and bonds for that amount running to the treasurer of the county for the use of persons entitled to the bonds shall be deposited in the Superior Court. If, within 2 years after the bonds are deposited, no person has been able to prove ownership of the real property, the Superior Court shall order these bonds to be cancelled and delivered up to the authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Notice published. After the resolution, plat and statement are filed, the authority shall have a copy of the resolution and statement published in a newspaper having general circulation in the county, at least once a week for 3 successive weeks. The statement must set forth the names of the owners of the real property to be taken and the amount awarded to them.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Agreement and cancellation of bonds. When any person agrees with the authority on the price of the real property taken under this section and the sum agreed upon is paid by the authority, the court

shall order the bond deposited under subsection 2, paragraph C to be cancelled and delivered up to the authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Complaint to Superior Court; trial. Any owner of any real property taken under this section, who cannot agree with the authority on the price of the real property in which the owner is interested, within 3 months after personal notice of the taking or, if the owner has no personal notice, may within one year from the first publication of the copy of the resolution and statement under subsection 4, apply by complaint to the Superior Court in the county, setting forth the taking of the real property and praying for an assessment of damages by a jury or, by agreement of the parties, a referee or referees appointed by the court.

A. When this complaint is filed, the court shall have 20 days' notice of the pendency of the action given to the authority by serving the chairman of the authority with a certified copy of the complaint. The court may proceed after this notice to the trial of the action. This trial shall determine all questions of fact relating to the value and the amount of the real property and judgment shall be entered upon the verdict of the jury. Execution shall be issued for that judgment against the money deposited in the court under subsection 2, paragraph C. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Conflicting ownership. If the authority is in doubt as to conflicting ownership or interest, the authority may file a complaint in the Superior Court for a determination of the various rights and amounts due. If 2 or more conflicting plaintiffs claim the same real property or different interests in the same parcel of real property, the court, upon motion, shall consolidate their several complaints for trial at the same time by the same jury, and may frame all necessary issues for the trial of that action.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Appeal. Appeal from the decision of the Superior Court may be made in the same manner as provided for appeals in civil cases.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Property of infants or incapable persons. If any real property, in which any infant or other person not capable in law to act in their own behalf is interested, is taken by an authority under this chapter, the Superior Court, upon the filing of any complaint by or in behalf of any infant or other person, may appoint a guardian ad litem for the infant or other person. This guardian may appear and be heard on behalf of the infant or other person and may, with the advice and consent of the Superior Court and upon any terms that the Superior Court prescribes, release to the authority all claims for damages for the real property of the infant or other person. Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of any such infant or other person, with the approval of the Probate Court having jurisdiction to authorize the sale of real property within the State of any such infant or other person, may, before the filing of any such complaint, agree with the authority upon the amount of damages suffered by the infant or other person by any taking of real property and may, upon receiving that amount, release to the authority all claims for damages of the infant or other person for the taking.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Expediting proceedings; taking public property. In any proceedings for the assessment of compensation and damages for real property taken or to be taken by eminent domain by the authority, the following provisions apply.

A. At any time during the pendency of the action or proceedings, the authority or an owner may apply to the court for an order directing an owner or the authority to show cause why further proceedings should not be expedited. Upon this application, the court may order that the hearings proceed and that any other steps be taken with all possible expedition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If any of the real property included within the project is devoted to a public use, it may nevertheless be acquired, and the taking is effective, provided that no real property belonging to the municipality or to any government may be acquired without its consent and that no real property belonging to a public utility corporation may be acquired without the approval of the Public Utilities Commission or other officer or tribunal having regulatory power over that corporation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any real property already acquired by the authority may nevertheless be included within this taking for the purpose of acquiring any outstanding interests in the real property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5109. Acquisition and development of land

1. Acquisition of undeveloped land. If the municipal officers determine by resolution that the acquisition and development of undeveloped vacant land, not within a slum or blighted area, is essential to the proper clearance or redevelopment of slum or blighted areas or a necessary part of the general slum-clearance program of the municipality, the acquisition, planning, preparation for development or disposal of that land constitutes an urban renewal project which may be undertaken by the authority, provided that the area may not be so acquired unless:

A. If the undeveloped vacant land is to be developed for residential uses, the municipal officers shall determine that:

(1) A shortage of housing of sound standards and design which is decent, safe and sanitary exists in the municipality;

(2) The need for housing accommodations has been or will be increased because of the clearance of slums in other areas, including other portions of the urban renewal area;

(3) The conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals or welfare; and

(4) The acquisition of the area for residential uses is an integral part of and essential to the program of the municipality; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If the undeveloped vacant land is to be developed for nonresidential uses, the municipal officers shall determine that:

(1) The nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives; and

(2) The acquisition of the land may require the exercise of governmental action, as provided in this chapter, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of a municipality by streets and modern traffic requirements, or any combination of these factors or other conditions which retard development of the area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Disaster areas. Notwithstanding any other provisions of this chapter, where the municipal officers certify that an area requires redevelopment or rehabilitation because of a flood, fire, hurricane, earthquake, storm or other catastrophe concerning which the Governor has certified the need for disaster assistance under federal law, the municipal officers may approve an urban renewal plan and an urban renewal project with respect to that area without regard to section 5108 and the sections requiring a general plan for the municipality and a public hearing on the urban renewal project.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5110. Authorization to issue bonds

The authority may issue bonds to finance any undertakings authorized by this chapter under the following conditions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Hearing held. The municipal officers must certify that the hearing required by section 5106 has been held.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Approval of renewal plan granted. The municipal officers must certify that approval of the renewal plan as required by section 5106 has been granted.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Copies of certificates filed. Copies of these certificates must be filed with the authority and with the municipal clerk.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Reconsideration if no approval. Failure of approval does not prevent the municipal officers from again considering the renewal plan in the manner provided.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5111. Bond issues

The authority may issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this chapter, including, but not limited to, the payment of principal and interest upon any advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued by it. The bonds must be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of the authority derived from or held in connection with its undertaking and carrying out of urban renewal projects under this chapter, provided that payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of the municipality under this chapter, and by a mortgage of any urban renewal projects, or any part of a project, title to which is in the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Not municipal indebtedness; not taxable. Bonds issued under this section do not constitute a municipal indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not subject to any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under this chapter 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.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. 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 make the following provisions:

A. The date or dates borne by the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The interest rate or rates of the bonds, not exceeding 6% per year; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The denomination or denominations of the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The form of the bonds, whether coupon or registered; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The conversion or registration privileges carried by the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The rank or priority of the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. The manner of execution of the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. The medium and place or places of payment; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. The terms of redemption of the bonds, with or without premium; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

K. The manner secured; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

L. Any other characteristics of the bonds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Price sold. The bonds may be:

A. Sold at not less than par at public sales held after notice published in a newspaper having general circulation in the area of operation and in any other medium of publication that the authority determines; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Exchanged for other bonds on the basis of par; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Sold to the Federal Government at private sale at not less than par.

(1) 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 which does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Signatures of outgoing officers; negoti- ability. If any of the officials of the authority whose signatures appear on any bonds or coupons issued under this chapter ceases to be an official before the bonds are delivered, those signatures are, nevertheless, valid for all purposes, the same as if the official had remained in office until the delivery. Notwithstanding any contrary provision of any law, any bonds issued under this chapter are fully negotiable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Bond recitation; conclusive presumptions. In any action or proceeding involving the validity or enforceability of any bond issued under this chapter or the security for that bond, any such bond

reciting in substance that it has been issued by the authority in connection with an urban renewal project is conclusively deemed to have been issued for that purpose and the urban renewal project is conclusively deemed to have been planned, located and carried out in accordance with this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. No personal liability; not debt of State or municipality. Neither the trustees of the authority nor any person executing the bonds may be liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority are not a debt of the municipality nor the State, and neither the municipality nor the State may be liable on the bonds. The bonds and obligations shall so state on their face. The bonds or obligations may not, in any case, be payable out of any funds or properties other than those of the authority acquired for the purposes of this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5112. Conveyance to Federal Government on default

In any contract for financial assistance with the Federal Government, the authority may obligate itself to convey to the Federal Government possession of or title to the urban renewal project and land in the project to which the contract relates which is owned by the authority, upon the occurrence of a substantial default, as defined in the contract, with respect to the covenants or conditions to which the authority is subject. This obligation is specifically enforceable and does not constitute a mortgage. The contracts may provide that, in case of such a conveyance, the Federal Government may complete, operate, manage, lease, convey or otherwise deal with the urban renewal project in accordance with the terms of the contract, provided that the contract requires that, as soon as practicable after the Federal Government is satisfied that all defaults with respect to the renewal project have been cured and that the urban renewal project will thereafter be operated in accordance with the terms of the contract, the Federal Government will reconvey to the authority the urban renewal project as then constituted. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5113. Bonds as legal investments

All public officers, municipal corporations, political subdivisions and public bodies, all 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; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, curators, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or other obligations issued by the authority under this chapter. These bonds and other obligations are authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing in this section with regard to legal investments may be construed as relieving any person of any duty or of exercising reasonable care in selecting securities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5114. Exemption from taxes and execution

1. Property exempt from execution. All property, including funds of the authority, is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the authority's property nor may judgment against the authority be a charge or lien upon its property.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Property exempt from taxation. The property of the authority is declared to be public property used for essential public and governmental purposes and that property and the authority are exempt from all taxes of the municipality, the State or any political subdivision of the State, provided that, with respect to any property in a renewal project, the tax exemption provided in this section shall terminate when the authority sells, leases or otherwise disposes of the property to a redeveloper for redevelopment.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Construction; limitation of application. Nothing in this section may be construed to:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the authority or the right of any obligee to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees, grant or revenue. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5115. Transfer, sale or lease of real property in urban renewal area

1. Sale or lease of property. The authority, for the purpose of this chapter, may sell or lease for such sums as may be agreed upon all or any part of a renewal area to the redeveloper or, if the property is to be used for public purposes, to any appropriate public agency.

A. The authority shall determine the consideration paid for the sale or lease of the property, and the municipality may appropriate and authorize the expenditure of money to compensate for any portion of the difference between the acquisition cost of the property and the sale or lease price of the property at a lesser consideration to the redeveloper.

(1) A sale or lease price may not be lower than the use value of the property, unless the sale or lease is to a public agency to be used for public purposes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Each contract for sale or lease to a redeveloper must provide, among other things, that:

(1) The property transferred will be developed and used in accordance with the renewal plan or that plan as modified with the authority's approval;

(2) The building of the improvements will be begun within a period of time which the authority fixes as reasonable; and

(3) All transfers of properties by the redeveloper will be subject to the consent of the authority until construction or improvements are completed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The municipal officers must approve any contract for sale or lease before its final approval by the authority. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Temporary operation by authority. The authority may temporarily operate and maintain real property in a renewal project area pending the disposition of the property for renewal, without regard to subsection 1, for any uses and purposes that are considered desirable even though not in conformity with the renewal plan.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Federally designated development areas. Notwithstanding any other provisions of this chapter, where the municipality is located in an area designated as a redevelopment area under the United States Area Redevelopment Act, Public Law 87-27, the public body or corporation for redevelopment may, in accordance with the urban renewal plan, dispose of land in an urban renewal project area designated under the urban renewal plan for industrial or commercial uses to any public body or nonprofit corporation for subsequent disposition as promptly as practicable. Only the purchaser from or lessee of the public body or corporation, and their assignees, is required to assume the obligation of beginning the construction of improvements within a reasonable time. Any disposition of land to a public body or corporation under this subsection must be made at its fair value for uses in accordance with the urban renewal plan.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Contracts; federal conditions. The authority may arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with a renewal project. The authority may agree to any conditions that it considers reasonable and appropriate attached to federal financial assistance and imposed under federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a renewal project, and may include in any contract let in connection with such a project provisions to fulfill any of these conditions that it considers reasonable and appropriate.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Powers; contractual provisions. Within its area of operation, the authority may:

A. Purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property, or any interest in property, together with any improvements on the property, necessary or incidental to a renewal project; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Hold, improve, clear or prepare for urban renewal any property obtained under subsection 1; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Sell, lease, exchange, transfer, assign, subdivide, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest in property; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Enter into contracts with redevelopers of property containing:

(1) Covenants, restrictions and conditions regarding the use of the property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the renewal plan; and

(2) Any other covenants, restrictions and conditions that the authority considers necessary to prevent a recurrence of slum or blighted areas or to accomplish the purposes of this chapter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Make any of the covenants, restrictions or conditions of the foregoing contracts or covenants running with the land, and may provide appropriate remedies for any breach of these covenants or conditions, including the authority's right to terminate the contracts and any interest in the property created under the contracts; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards, including the power to pay premiums on any such insurance; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Enter into any contracts necessary to accomplish the purposes of this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. General authority. The authority may exercise all or any part or combination of powers granted.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5116. Investment of funds; redemption of bonds

The authority may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Invest funds. Invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which saving banks may legally invest funds subject to their control; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Redeem or purchase bonds. Redeem its bonds at the redemption price established in the bonds or may purchase its bonds at less than redemption price, all bonds so redeemed or purchased to be cancelled.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5117. Investigatory powers

Acting through one or more trustees or other persons designated by the authority, examinations and investigations may be conducted to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Take testimony at hearings. Hear testimony and take proof under oath at public or private hearings on any matter material for its information;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Examination of unavailable witnesses. Administer oaths and issue commission for the examination of witnesses who are outside of the State or unable to appear before the authority, or who are excused from attendance; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Make information available. Make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or similar conditions or of demolishing unsafe or insanitary structures or eliminating slums or conditions of blight within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals or welfare.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5118. Cooperation by public bodies

For the purpose of aiding and cooperating in the planning, undertaking or carrying out of an urban renewal project, the municipality or any other public body, upon any terms that it may determine, with or without consideration, may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Property; use or disposal. Dedicate, sell, convey or lease any of its interests in any property, or grant easements, licenses or any rights or privileges in that property to the authority;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Public works. Cause public buildings and public facilities, parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished or repaired in connection with a redevelopment project;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Streets and walks. Furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places which it is otherwise empowered to undertake;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Losses. Assume the responsibility to bear any loss that may arise as the result of the exercise of authority under section 5104, subsection 6, in the event that the real property is not made part of the urban renewal project;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Administrative or other services. Cause administrative and other services to be furnished to the authority of the character which the municipality or other public body is otherwise empowered to undertake or furnish for the same or other purposes;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Expenses. Incur the entire expense of any public improvement made by the municipality or other public body in exercising the powers granted in this section;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Aid and cooperate. Do any things necessary to aid and cooperate in the planning or carrying out of an urban renewal plan;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Funds. Lend, grant or contribute funds to the authority;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Bonds or other obligations. Employ any funds belonging to or within the control of the municipality or other public body, including funds derived from the sale or furnishing of property, service or facilities to the authority, to purchase the authority's bonds or other obligations and, as the holder of those bonds or other obligations, exercise the rights of a bondholder; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Agreements. Enter into agreements, which may extend over any period, with the authority concerning action to be taken by the municipality or any such public body under any of the powers granted by this chapter. If at any time title to, or possession of, any renewal project is held by any public body or governmental agency, other than the authority authorized by law to engage in the undertaking, carrying out administration of urban renewal projects, including the Federal Government, these agreements shall inure to the benefit of and may be enforced by that public body or governmental agency.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Any sale, conveyance, lease or agreement provided for in this section may be made by the municipality or other public body without appraisal, public notice, advertisement or public bidding.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5119. Encouragement of private enterprise

The authority, to the greatest extent it determines to be feasible in carrying out this chapter, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise. The authority shall consider this objective in exercising its powers under this chapter, including the formulation of a workable program, the approval of urban renewal plans, the exercise of its zoning powers, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5120. Grant of funds by municipality

The municipality may grant funds to the authority for the purpose of aiding the authority in carrying out any of its powers and functions under this chapter. To obtain funds for this purpose, the municipality may levy taxes and may issue and sell its bonds. Any bonds issued by the municipality under this section shall be issued in the manner and within the limitations, except as otherwise provided, prescribed by the laws of the State for the issuance and authorization of bonds by the municipality for a public purpose. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5121. Title of purchaser

Any instrument executed by the authority and purporting to convey any right, title or interest in any property under this chapter is conclusive evidence of compliance with this chapter insofar as title or other interest of any bona fide purchasers, lessees or transferees of the property is concerned. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5122. Interest of public officials, trustees or employees

1. Acquisition of interest. No public official or employee of a municipality, or board or commission of a municipality, and no trustee or employee of an authority which has been vested by a municipality with urban renewal project powers under this chapter may voluntarily acquire any personal interest, direct or indirect, in any:

A. Urban renewal project; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Property included or planned to be included in any urban renewal project of the municipality; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Contract or proposed contract in connection with an urban renewal project. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

When this acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the municipal officers and the disclosure shall be entered upon their minutes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Present or past interest in property. If any official, trustee or employee as described in subsection 1 presently owns or controls, or owned or controlled within the preceding 2 years, any interest, direct or indirect, in any property known to be included or planned to be included in an urban renewal project, the official, trustee or employee shall immediately disclose this fact in writing to the municipal officers, and this disclosure shall be entered upon their minutes. Any such official, trustee or employee may not participate in any action by the authority affecting that property.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Disclosure to authority. Any disclosure required to be made under this section to the municipal officers shall concurrently be made to the authority which has been vested with urban renewal project powers by the municipality under this chapter.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Incompatible offices. No trustee or other officer of the authority exercising powers under this chapter may hold any other public office in the municipality other than the office with respect to the authority.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Violation. Any violation of this section constitutes misconduct in office.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 205

COMMUNITY DEVELOPMENT

§5201. Findings and declaration of necessity

The Legislature finds and declares that: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Existence of depressed areas. There exists in the municipalities of the State deteriorating, dilapidated, slum and blighted areas, dangerous buildings and incompatible uses of property, which constitute a serious threat to the public health, safety or welfare of the residents of the State;
[PL 1999, c. 540, §1 (AMD).]

2. Expense to public.

[PL 1999, c. 540, §2 (RP).]

3. Effect on municipalities. These areas, buildings and uses constitute an economic and social liability and substantially impair or arrest the sound growth of municipalities;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Not remediable by regulation or private enterprise. These threats are beyond remedy and control solely by regulatory process in the exercise of police power and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids provided in this chapter;
[PL 1999, c. 540, §3 (AMD).]

5. Public purpose. The elimination of these areas, buildings and uses, the acquisition and preparation of land in or necessary to the redevelopment and rehabilitation of the areas, buildings and uses, and its sale or lease in accordance with community development programs adopted by municipalities, any assistance which may be given by any state or federal public bodies or agencies and any money raised or appropriated by municipalities in connection with that activity, are public uses required by the public exigencies and are purposes for which public money may be expended and private property acquired; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Legislative determination. The necessity of the public interest for this chapter is hereby declared as a matter of legislative determination.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 540, §§1-3 (AMD).

§5202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Blighted area. "Blighted area" means:

A. An area in which there are a substantial number of buildings or improvements that are detrimental to the public health, safety or welfare because of:

(1) Dilapidation, deterioration, age or obsolescence;

(2) Inadequate provision for ventilation, light, air, sanitation or open spaces;

(3) High density of population and overcrowding;

(4) The existence of conditions that endanger life or property by fire and other causes; or

(5) Any combination of these factors; or [PL 1999, c. 540, §4 (AMD).]

B. An area that is a threat to the public health, safety or welfare in its present condition and use because of:

(1) Inadequate street layout, unsanitary or unsafe conditions;

(2) Tax or special assessment delinquency exceeding the fair value of the land;

(3) The existence of conditions that endanger life or property by fire and other causes; or

(4) Any combination of these factors. [PL 1999, c. 540, §4 (AMD).]

[PL 1999, c. 540, §4 (AMD).]

2. Community development program. "Community development program" means a program adopted by a municipality under this chapter which has as its primary objective the development of a viable community by providing decent housing principally for persons of low and moderate incomes, or by expanding economic opportunity by providing public facilities. This program must conform to the municipality's comprehensive plan. The program may include the following specific objectives:

A. The identification and elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities important to the welfare of the community and principally to persons of low and moderate income; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The elimination of conditions which are detrimental to health, safety and public welfare through code enforcement, demolition, interim rehabilitation assistance and related activities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The conservation and expansion of housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. A more rational use of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational and other needed activity centers; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The reduction of the isolation of income groups within the community and surrounding geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods in order to attract persons of higher income; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The restoration and preservation of properties of special value for historic, architectural or aesthetic reasons. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Disposition. "Disposition" includes the sale or lease of the property to persons not necessarily the original owners, or the municipality's retention of the property after acquisition or after acquisition and rehabilitation or demolition.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Owner. "Owner" means any person having an estate, interest or easement in the property to be acquired, or having a lien, charge, mortgage or encumbrance on the property.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Slum area. "Slum area" means a blighted area in an extreme state of deterioration and decay. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 540, §4 (AMD).

§5203. Municipal powers

1. Appropriations. A municipality may raise or appropriate money and may accept and appropriate state or federal grants to provide decent housing and a suitable living environment and to expand economic opportunities under a duly approved and adopted community development program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Community development program. The municipal officers of a municipality may prepare or have prepared a community development program. Before recommending a community development program to the municipal legislative body for approval, if the program has not been prepared by the planning board, the municipal officers shall submit the program to the municipal planning board for review and recommendations as to its conformity with the comprehensive plan and any applicable zoning ordinances. The planning board shall submit its written recommendations to the municipal officers within 45 days after receiving the program for review. The municipal officers shall, after 10 days' notice, hold public hearings on the plan upon receipt of those recommendations or, if no recommendations are received within the 45-day period, then without the recommendations. After the hearings are completed, the municipal officers shall submit the program and any recommendations of the planning board to the municipal legislative body for their approval and adoption.

A. Notwithstanding any other provision of this subsection, any community development program approved by a municipal legislative body before July 1, 1975, is deemed approved and adopted under this section if the program conforms with the municipality's comprehensive plan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Development powers. Except as provided, the municipal officers of a municipality may exercise, pursuant to a duly approved and adopted community development program, all appropriate and necessary powers to implement and complete the program, including, but not limited to:

A. Acquisition by purchase or by eminent domain of any vacant or undeveloped land and of any developed land and structures, buildings and improvements existing on the land located in designated slum or blighted areas for the purposes of the demolition and removal or rehabilitation and repair or redevelopment of property so acquired; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Loaning or granting of money or the guaranteeing of loans to encourage owners of property to voluntarily rehabilitate and repair their properties to comply with all zoning, housing, building, plumbing, electrical and other structural and constructional ordinances, regulations and standards of the municipality or State or to voluntarily demolish their properties; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the objectives of the community development program;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Contracting with, delegating of powers to or loaning or granting of money to any other political subdivision of the State, quasi-municipal corporation or agency of the State or its political subdivisions as may be required to implement and complete all or any portion of the community development program; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The disposition of acquired property, provided that the municipality may not, within 10 years of the date of acquisition, sell undeveloped or unrehabilitated property, in whole or in part, that was acquired by eminent domain without first offering it to the prior owner, owners or their heirs, except as provided in subparagraph (1). This offer must be kept open for at least 60 days and must be at a price no more than the sum of the compensation and damages given in the eminent domain proceedings, any relocation payments or benefits and the costs of the municipality for any improvements. The offer may be limited by requiring use of the property in accordance with the community development program.

(1) When the property to be sold is one of 3 or more contiguous or abutting parcels or lots that are to be redeveloped or rehabilitated as a unit, the property may be sold without first offering it to the prior owner, owners or their heirs.

(2) Any disposition of acquired property, other than to the prior owner, owners or their heirs, must require use of the property in accordance with the community development program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Tax increment revenues from rehabilitated or developed property. The legislative body of a municipality may provide that tax increment revenues from property rehabilitated or developed and subsequently sold by the municipality will be set aside annually and deposited to the credit of a sinking fund, which is pledged to and charged with the payment of the interest and principal as they fall due, and the necessary charges of paying agents for paying interest and principal of any notes, bonds or other evidences of indebtedness that were issued to fund or refund the rehabilitation or development of the property.

A. Tax increment revenues from property rehabilitated or developed shall be the real property tax revenues received, based on the amount of valuation that exceeds the valuation of the property on the April 1st immediately preceding the adoption of the municipal community development plan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The sinking fund is a fund for the benefit of the notes, bonds or other evidences of indebtedness issued to fund or refund the rehabilitation or development of the property, and any money deposited in this fund shall be held and applied solely for that purpose. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5204. Eminent domain

The following provisions govern the exercise of eminent domain powers by the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Adoption of resolution of condemnation. The municipal officers shall adopt a resolution of condemnation. This resolution must:

A. Specifically describe the property, or interest in the property to be acquired, and its location by metes and bounds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Specify the name or names of the owner or owners; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Set forth the amount of damages determined by the municipal officers to be just compensation for the property or interest in the property taken; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Declare that the acquisition is pursuant to a duly adopted community development program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The resolution shall be served on the owners either personally or by registered mail, and then shall be submitted to the municipal legislative body for approval or disapproval. The municipal legislative body may not amend the resolution to decrease the amount of damages to be paid.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Filing, bonds and notice. Within 3 months after the municipality approves the resolution:

A. The municipal officers shall have a copy of the resolution filed in the registry of deeds of the county in which the property is located. After this copy is filed, the municipal officers shall have filed in the Superior Court of the county in which the property is located:

(1) A copy of the resolution; and

(2) A statement of the sum of money approved by the municipality as just compensation for the property taken; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. After the copy of the resolution has been filed in the registry and the statement of estimated just compensation has been filed in the Superior Court, the municipal officers shall have bonds deposited in the Superior Court with surety satisfactory to the clerk of the court, in the amounts that the court determines to be sufficient to satisfy the claims of all persons interested in the property. These bonds shall be deposited for the use of persons entitled to them. The court may, in its discretion, take evidence on the question to determine:

(1) The amounts of the bonds to be deposited;

(2) Title to the property; or

(3) Interest in the property; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. After the copy of the resolution has been filed in the registry and the statement of just compensation has been filed in the Superior Court, the municipal officers shall have notice of the taking of the property or interest in the property served upon the owners of the property by a sheriff or deputies. Service shall be made by leaving a true and attested copy of the resolution and the statement of estimated just compensation with each owner personally or at the last known address in the State or with some person living at that address.

(1) If any owner is not a resident of the State, a true and attested copy of the resolution and statement shall be sent by registered mail, return receipt requested, to the owner at the last known address.

(2) In addition, municipal officers shall have a copy of the resolution together with the names of the owners of the property and the amount to be awarded to each of them, published in a newspaper having general circulation in the county, at least once a week for 3 consecutive weeks; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

After the bonds are deposited in the Superior Court, and notice is given, title to the property vests in the municipality in fee simple absolute and the municipality may take possession of the property.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Unknown ownership. If ownership of the property cannot be ascertained after due and diligent search, an award shall be made to persons unknown for the value of the property, and bonds for that amount running to the treasurer of the county for the use of the persons entitled to them, shall be deposited in the Superior Court. If no person has been able to prove ownership of the property within 2 years after the bonds are deposited, the Superior Court shall order those bonds to be cancelled and delivered up to the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Agreement and cancellation of bonds. When any person entitled to the bonds agrees with the municipality for the price of the property or interest in the property so taken and the sum agreed upon is paid by the municipality, the court shall order the bond deposited under this section to be cancelled and delivered up to the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Complaint to Superior Court; trial. Any owner of the property taken under this section, who cannot agree with the municipality on the price of the property or interest in the property in which the owner is interested, may apply by complaint to the Superior Court in the county where the property is located.

A. The complaint must be made within 3 months after personal notice of the taking or, if the owner has no personal notice, within one year from the first publication of the copy of the resolution and description required in subsection 2, paragraph C. It must set forth the taking of the property or interest in property, and pray for the assessment of damages by jury or, by agreement of the parties, by a referee or referees appointed by the court. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When the complaint is filed, the Superior Court shall have 20 days' notice of the pendency of the action given to the municipality by serving the municipal clerk with a certified copy of the complaint. The court may proceed after this notice to obtain a trial of the action. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The trial shall determine all questions of fact relating to the value of the property or interest in the property and the amount of that interest. Judgment shall be entered upon the verdict of the jury and execution shall be issued for that judgment against the money deposited in the court. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Conflicting ownership. If the municipal officers are in doubt as to conflicting ownership or interest, the municipality may file a complaint in the Superior Court for the county in which the property is located for a determination of the various rights and amounts due. If 2 or more plaintiffs make claims to the real property, or to any interest in the property, or to different interests in the same property, the Superior Court, upon motion, shall consolidate their several complaints for trial at the same time by the same jury and may frame all necessary issues for the trial of those actions.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Appeal. An appeal from the decision of the Superior Court may be made in the manner provided for appeals in civil cases.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Guardian ad litem. If a municipality takes any real property or interest in property in which any minor or other person not capable in law to act in the minor's or other person's own behalf is interested, the appropriate Superior Court may, upon the filing of a complaint under subsection 5 by or on behalf of the minor or other person, appoint a guardian ad litem for the minor or other person. This guardian may appear and be heard on behalf of the minor or other person and may, with the advice and consent of the Superior Court and upon such terms as the Superior Court prescribes, release to the municipality all claims for damages for the property of the minor or other person or for any interest in the property.

Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of any such minor or other person, with the approval of the Probate Court having jurisdiction to authorize the sale of real property within this State, may, before filing any complaint under this section, agree with the municipality on the amount of damages suffered by the minor or other person by any taking of property or of interest in the property and may, upon receiving that amount, release to the municipality all claims for damages of the minor or other person for the taking.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Expedited proceedings; property devoted to public use. In any proceedings for assessment of compensation and damages for property or interest in the property taken or to be taken by eminent domain by the municipality, the following provisions apply.

A. At any time during the pendency of the action or proceedings, the municipality or an owner may apply to the court for an order directing the owner or the municipality, as the case may be, to show cause why further proceedings should not be expedited. Upon this application the court may make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If any property or interest in property is devoted to a public use, it may nevertheless be acquired and the taking is effective, provided that:

(1) No property or interest in property belonging to any governmental agency may be acquired without its consent; and

(2) No property or interest in property belonging to a public utility corporation may be acquired without the approval of the Public Utilities Commission or other officer or tribunal having regulatory power over the corporation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any property or interest in property previously deeded to or acquired by the municipality may be included within the taking for the purpose of acquiring any outstanding interests in the property. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Business relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a business or farm, the municipality shall provide payment for moving and related expenses as applicable under Title 23, section 244.

[PL 2005, c. 642, §5 (NEW).]

11. Residence relocation benefits. Whenever the acquisition of real property pursuant to this section results in the displacement of a person from a dwelling, the municipality shall provide payment for moving and related expenses, as well as replacement housing as applicable under Title 23, sections 244 to 244-C.

[PL 2005, c. 642, §5 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2005, c. 642, §5 (AMD).

§5205. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for the purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by a municipality or a member, officer, employee or agent of a municipality from an applicant for assistance provided by this chapter or from any 3rd person pertaining to an applicant for assistance provided pursuant to this chapter; and [PL 1997, c. 201, §1 (AMD).]

B. Any written or recorded financial statement of an applicant submitted to a municipality or a member, officer, employee or agent of a municipality in connection with an application for assistance pursuant to this chapter. [PL 1997, c. 201, §1 (AMD).]

The term "applicant" includes individuals, partnerships, limited partnerships, limited liability companies and corporations, but does not include partnerships, limited liability companies and corporations whose shares, interests or other evidence of proportional ownership are publicly traded upon a recognized exchange.

[PL 1997, c. 201, §1 (AMD).]

2. Wrongful disclosure prohibited. A member, officer, employee or agent of a municipality may not knowingly divulge or disclose information declared confidential by this section, except that:

A. A municipality or its agent may make such full and complete reports concerning its administration of programs provided with state or federal funds as required by State Government or Federal Government; [PL 1991, c. 322 (NEW).]

B. A municipality or its agent may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner that preserves confidentiality; [PL 1991, c. 322 (NEW).]

C. A municipality or its agent may comply with a subpoena, request for production of documents, warrant or court order issued or made upon lawful authority; and [PL 1991, c. 322 (NEW).]

D. In any litigation or proceeding in which a municipality or its agent is a party, the municipality or its agent may introduce evidence based on any information deemed confidential that is within the control or custody of the municipality or its agent. [PL 1991, c. 322 (NEW).]

[PL 1991, c. 322 (NEW).]

3. Waiver. This section may not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection.
[PL 1991, c. 322 (NEW).]

4. Penalty. A person violating any provision under subsection 2 commits a civil violation for which a forfeiture of not more than $200 may be adjudged. Each separate act of disclosure is considered a separate offense.
[PL 1991, c. 322 (NEW).]

5. Application. Notwithstanding this section, the confidentiality of information provided to a municipality during the course of the application process with the Department of Economic and Community Development is governed by Title 5, sections 13119 to 13119-C.
[PL 1997, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 322 (NEW). PL 1997, c. 201, §§1,2 (AMD).

CHAPTER 205-A

MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS

§5211. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 510, Pt. A, §29 (NEW).]

1. Assessed share. "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

2. Capital improvement district. "Capital improvement district" means a defined area within a municipality that is initially privately owned and that has been designated by the municipality as a capital improvement district according to the provisions of this chapter for the interrelated purposes of fairly apportioning the costs of making necessary capital improvements among the owners of property in the capital improvement district and establishing the public elements of the capital improvement district as municipally owned.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

3. Improvement. "Improvement" means road construction, drainage system development or the installation of sewer or drinking water infrastructure.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

4. Public elements. "Public elements" of a capital improvement district means legal interests in defined properties located within a capital improvement district. "Public elements" may include public easements or fee simple titles in specifically defined property or properties.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

SECTION HISTORY

PL 2003, c. 510, §A29 (NEW).

§5212. Capital improvement districts authorized

A municipality may create one or more capital improvement districts within the municipal boundaries. [PL 2003, c. 510, Pt. A, §29 (NEW).]

SECTION HISTORY

PL 2003, c. 510, §A29 (NEW).

§5213. Capital improvement districts; public hearing; notice; referendum votes

In order to establish a capital improvement district, a municipality shall adhere to the following procedures. [PL 2003, c. 510, Pt. A, §29 (NEW).]

1. Initial determinations. In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall:

A. Determine the proposed boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record; [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. Describe all improvements to the proposed capital improvement district that need to be made; [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. Calculate an estimate of the costs of the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]

E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

F. Establish the proposed duration of the payment period for the assessed shares; [PL 2003, c. 510, Pt. A, §29 (NEW).]

G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and [PL 2003, c. 510, Pt. A, §29 (NEW).]

H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4. [PL 2003, c. 510, Pt. A, §29 (NEW).]

[PL 2003, c. 510, Pt. A, §29 (NEW).]

2. Public notice. The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include:

A. A description of the proposed boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. The proposed improvements to the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. The estimated costs of the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. The public elements of the capital improvement district; and [PL 2003, c. 510, Pt. A, §29 (NEW).]

E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4. [PL 2003, c. 510, Pt. A, §29 (NEW).]

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

3. Public hearing. Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the:

A. Proposed boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. Type of improvements to the proposed capital improvement district being considered; [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. Need for the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. Costs of the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]

E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered; [PL 2003, c. 510, Pt. A, §29 (NEW).]

F. Proposed duration of the payment period for those special assessments; [PL 2003, c. 510, Pt. A, §29 (NEW).]

G. Proposed public elements of the capital improvement district; and [PL 2003, c. 510, Pt. A, §29 (NEW).]

H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5. [PL 2003, c. 510, Pt. A, §29 (NEW).]

The municipal officers may hold additional public hearings as necessary.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

4. Referendum of owners of property in proposed capital improvement district. The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection. [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting

age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted. [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3. [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot. [PL 2003, c. 510, Pt. A, §29 (NEW).]

E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of to apply a special assessment against the property you own in the proposed capital improvement district for a period of years, for the purpose of (description of improvements), with the total assessment to all property owners within the capital improvement district not to exceed $, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of accepting the public costs for the capital improvement district improvements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same. [PL 2003, c. 510, Pt. A, §29 (NEW).]

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district.
[PL 2003, c. 510, Pt. A, §29 (NEW).]

5. Referendum of municipal voters. The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection. [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4. [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of years, for the purpose of (describe improvements), with the total assessment to all owners of property within the capital improvement district not to exceed $, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same. [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum. [PL 2003, c. 510, Pt. A, §29 (NEW).]

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters. [PL 2003, c. 510, Pt. A, §29 (NEW).]

[PL 2003, c. 510, Pt. A, §29 (NEW).]

SECTION HISTORY

PL 2003, c. 510, §A29 (NEW).

§5214. Implementation of improvements to capital improvement district

1. Advisory committee. The municipal officers are responsible for implementing improvements to the capital improvement district. For the purposes of overseeing the authorized improvements to the capital improvement district, the municipal officers shall appoint an advisory committee consisting of no fewer than 3 and no more than 7 owners of property within the capital improvement district for the purposes of receiving comments and recommendations on the proposed improvement or improvements within the capital improvement district. Advisory committee members serve at the pleasure of the municipal officers.

[PL 2003, c. 510, Pt. A, §29 (NEW).]

2. Cost of improvement. The initial cost of an authorized improvement in a capital improvement district is borne by the municipality until the improvement is complete, as determined by the municipal officers. Commencing with the first tax year that begins after the determination by the municipal officers that the improvement is complete, the municipality shall levy a special assessment against each property in the capital improvement district representing that property's annual share of the cost of the improvement as determined by the municipal officers and projected in the referenda ballots that created the capital improvement district, unless the actual total cost of the improvement is determined to be less than projected during the referenda, in which case the special assessments are reduced proportionally to reflect the actual cost.

[PL 2003, c. 510, Pt. A, §29 (NEW).]

3. Method of assessment. The special assessments must be included in the next annual warrant to the tax collector of the municipality for collection and must be collected in the same manner as state, county and municipal taxes are collected.

[PL 2003, c. 510, Pt. A, §29 (NEW).]

4. Annual report. The municipality's annual report must record the progress of implementing the improvements to the capital improvement district. At a minimum, the annual report must include:

A. The boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. The public elements of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. The improvements to the capital improvement district made by the municipality; and [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. The total cost of those improvements, the schedule of the assessed shares and contingency fees against the property located within the district to pay for the improvements and the degree to which

those assessed shares and contingency fees have been collected. [PL 2003, c. 510, Pt. A, §29 (NEW).]

[PL 2003, c. 510, Pt. A, §29 (NEW).]

SECTION HISTORY

PL 2003, c. 510, §A29 (NEW).

§5215. Dissolution of capital improvement district

A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds. [PL 2003, c. 510, Pt. A, §29 (NEW).]

SECTION HISTORY

PL 2003, c. 510, §A29 (NEW).

CHAPTER 206

MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS

§5221. Definitions

(REPEALED)

SECTION HISTORY

PL 2001, c. 521, §1 (NEW). PL 2003, c. 510, Pt. A, §30 (RP).

§5222. Capital improvement districts authorized

(REPEALED)

SECTION HISTORY

PL 2001, c. 521, §1 (NEW). PL 2003, c. 510, Pt. A, §30 (RP).

§5223. Capital improvement districts; public hearing; notice; referendum votes

(REPEALED)

SECTION HISTORY

PL 2001, c. 521, §1 (NEW). PL 2003, c. 510, Pt. A, §30 (RP).

§5224. Implementation of improvements to capital improvement district

(REPEALED)

SECTION HISTORY

PL 2001, c. 521, §1 (NEW). PL 2003, c. 510, Pt. A, §30 (RP).

§5225. Dissolution of capital improvement district

(REPEALED)

SECTION HISTORY

PL 2001, c. 521, §1 (NEW). PL 2003, c. 510, Pt. A, §30 (RP).

CHAPTER 206

DEVELOPMENT DISTRICTS

SUBCHAPTER 1

DEVELOPMENT DISTRICTS FOR MUNICIPALITIES AND PLANTATIONS

§5221. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for new development in areas of municipalities and plantations to:

A. Provide new employment opportunities; [PL 2001, c. 669, §1 (NEW).]

B. Improve and broaden the tax base; and [PL 2001, c. 669, §1 (NEW).]

C. Improve the general economy of the State. [PL 2001, c. 669, §1 (NEW).]
[PL 2011, c. 101, §1 (AMD).]

2. Authorization. For the reasons set out in subsection 1, municipalities and plantations may develop a program for improving a district of the municipality or plantation:

A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination; [PL 2009, c. 314, §1 (AMD).]

B. To increase employment; and [PL 2001, c. 669, §1 (NEW).]

C. To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation. [PL 2011, c. 101, §2 (AMD).]
[PL 2011, c. 101, §2 (AMD).]

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §1 (AMD). PL 2009, c. 314, §1 (AMD). PL 2011, c. 101, §§1, 2 (AMD).

§5222. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 669, §1 (NEW).]

1. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.
[PL 2001, c. 669, §1 (NEW).]

1-A. Arts district. "Arts district" means a specified area within the corporate limits of a municipality or plantation that has been designated by the municipality or plantation for the purpose of providing employment and cultural opportunities through the development of arts opportunities, including, but not limited to, museums, galleries, arts education, art studios, performing arts venues and associated businesses.
[PL 2011, c. 101, §3 (AMD).]

1-B. Adult care facilities. "Adult care facilities" means facilities that are licensed by the Department of Health and Human Services and that offer programs for adults who need assistance or supervision and that are operated out of nonresidential commercial buildings. The programs offered at adult care facilities include the provision of:

A. Services that allow family members or caregivers to be active in the workforce; [PL 2019, c. 604, §1 (NEW).]

B. Professional and compassionate services for adults in a community and program-based setting; and [PL 2019, c. 604, §1 (NEW).]

C. Social and health services to adults who need supervised care in a safe place outside the home. [PL 2019, c. 604, §1 (NEW).]

[PL 2019, c. 604, §1 (NEW).]

2. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.

[PL 2001, c. 669, §1 (NEW).]

2-A. Child care facilities. "Child care facilities" means facilities that are licensed by the Department of Health and Human Services that provide care for at least 6 children who are less than 18 years of age by persons who are not family members, legal guardians or other custodians of the children and that are operated out of nonresidential commercial buildings. To meet this definition, a child care facility must have a director and a sufficient number of staff members whose sole function is to provide necessary child care services. The services offered at child care facilities include the provision of services that allow the children's family members, legal guardians or other custodians the ability to be active in the workforce.

[PL 2019, c. 604, §2 (NEW).]

3. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

[PL 2001, c. 669, §1 (NEW).]

4. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal or plantation assessor as of April 1st of each year that the development district remains in effect.

[PL 2011, c. 101, §4 (AMD).]

5. Department. "Department" means the Department of Economic and Community Development.

[PL 2001, c. 669, §1 (NEW).]

6. Development district. "Development district" means a specified area within the corporate limits of a municipality or plantation that has been designated as provided under sections 5223 and 5226 and that is to be developed under a development program.

[PL 2011, c. 101, §5 (AMD).]

7. Development program. "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base, construct or improve the physical facilities and structures or improve the quality of pedestrian and vehicular transportation, as described in section 5224, subsection 2.

[PL 2001, c. 669, §1 (NEW).]

8. Downtown. "Downtown" means the traditional central business district of a community that has served as the center of socioeconomic interaction in the community, characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential

buildings and public spaces, that are typically arranged along a main street and intersecting side streets and served by public infrastructure.
[PL 2001, c. 669, §1 (NEW).]

9. Downtown tax increment financing district. "Downtown tax increment financing district" means a tax increment financing district described in a downtown redevelopment plan that is consistent with the downtown criteria established pursuant to rules of the department.
[PL 2001, c. 669, §1 (NEW).]

10. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.
[PL 2001, c. 669, §1 (NEW).]

10-A. Fisheries and wildlife or marine resources project. "Fisheries and wildlife or marine resources project" means a project approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources undertaken for the purpose of improving public access to freshwater or saltwater fisheries and wildlife resources of the State for fishing, hunting, research or observation or for conservation or improvement of the freshwater or saltwater fisheries and wildlife resources of the State.
[PL 2011, c. 675, §1 (NEW).]

11. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of a tax increment financing district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.
[PL 2001, c. 669, §1 (NEW).]

12. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain facilities after they have been developed and all activities necessary to operate the facilities, including, but not limited to, informational, promotional and educational programs and safety and surveillance activities.
[PL 2001, c. 669, §1 (NEW).]

13. Original assessed value. "Original assessed value" means the assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated and, for development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of a development district as of March 31st of the tax year preceding the year in which it was designated by the legislative body of a municipality or a plantation.
[PL 2013, c. 184, §1 (AMD).]

14. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.
[PL 2001, c. 669, §1 (NEW).]

14-A. Public safety facility. "Public safety facility" means a facility used primarily for the functions of municipal or plantation government that ensure the protection of residents, organizations and institutions in the municipality or plantation, including the provision of law enforcement, fire and emergency services.
[PL 2019, c. 148, §1 (NEW).]

15. Tax increment. "Tax increment" means real and personal property taxes assessed by a municipality or plantation, in excess of any state, county or special district tax, upon the increased assessed value of property in the development district.
[PL 2011, c. 101, §6 (AMD).]

16. Tax increment financing district. "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.
[PL 2001, c. 669, §1 (NEW).]

17. Tax shifts. "Tax shifts" means the effect on a municipality's or plantation's state revenue sharing, education subsidies and county tax obligations that results from the designation of a tax increment financing district and the capture of increased assessed value.
[PL 2011, c. 101, §7 (AMD).]

18. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.
[PL 2001, c. 669, §1 (NEW).]

19. Transit. "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, light rail and other rail systems.
[PL 2009, c. 314, §2 (NEW).]

20. Transit facility. "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.
[PL 2009, c. 314, §3 (NEW).]

21. Transit-oriented development. "Transit-oriented development" means a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors. Transit-oriented development is intended through location and design to rely on transit as one of the means of meeting the transportation needs of residents, customers and occupants as demonstrated through such factors as transit facility proximity, mixed uses, off-street parking space ratio less than industry standards, architectural accommodation for transit and marketing that highlights transit.
[PL 2009, c. 314, §4 (NEW).]

22. Transit-oriented development area. "Transit-oriented development area" means an area of any shape such that no part of the perimeter is more than 1/4 mile from an existing or planned transit facility.
[PL 2009, c. 314, §5 (NEW).]

23. Transit-oriented development corridor. "Transit-oriented development corridor" means a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route.
[PL 2009, c. 314, §6 (NEW).]

24. Transit-oriented development district. "Transit-oriented development district" means a tax increment financing district consisting of a transit-oriented development area or a transit-oriented development corridor.
[PL 2009, c. 314, §7 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §2 (AMD). PL 2009, c. 314, §§2-7 (AMD). PL 2011, c. 101, §§3-7 (AMD). PL 2011, c. 675, §1 (AMD). PL 2013, c. 184, §1 (AMD). PL 2019, c. 148, §1 (AMD). PL 2019, c. 604, §§1, 2 (AMD).

§5223. Development districts

1. Creation. A municipal or plantation legislative body may designate a development district within the boundaries of the municipality or plantation in accordance with the requirements of this

chapter. If the municipality has a charter, the designation of a development district may not be in conflict with the provisions of the municipal charter.
[PL 2011, c. 101, §8 (AMD).]

2. Considerations for approval. Before designating a development district within the boundaries of a municipality or plantation, or before establishing a development program for a designated development district, the legislative body of a municipality or plantation must consider whether the proposed district or program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5226, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing business in the municipality or plantation and produces substantial evidence to that effect, the legislative body must consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing business in the municipality or plantation is outweighed by the contribution made by the district or program to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation.
[PL 2011, c. 101, §8 (AMD).]

3. Conditions for approval. Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

(1) Must be a blighted area;

(2) Must be in need of rehabilitation, redevelopment or conservation work including a fisheries and wildlife or marine resources project; or

(3) Must be suitable for commercial or arts district uses. [PL 2011, c. 675, §2 (AMD).]

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality or plantation. The total area of all development districts may not exceed 5% of the total acreage of the municipality or plantation. [PL 2011, c. 101, §8 (AMD).]

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality or plantation may not exceed 5% of the total value of taxable property within the municipality or plantation as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

(1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed $10,000,000;

(2) The geographic area consists entirely of contiguous property owned by a single taxpayer;

(3) The assessed value exceeds 10% of the total value of taxable property within the municipality or plantation; and

(4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way. [PL 2011, c. 101, §8 (AMD).]

D. [PL 2013, c. 184, §2 (RP).]

The conditions in paragraphs A to C do not apply to approved downtown tax increment financing districts, tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.
[PL 2013, c. 184, §2 (AMD).]

4. Powers of municipality or plantation. Within development districts and consistent with the development program, the municipality or plantation may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality or plantation may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's or plantation's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the development district. The municipality or plantation may install public improvements.
[PL 2011, c. 101, §8 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2003, c. 451, §NNN1 (AMD). PL 2005, c. 646, §1 (AMD). PL 2007, c. 413, §3 (AMD). PL 2007, c. 693, §3 (AMD). PL 2007, c. 693, §37 (AFF). PL 2009, c. 314, §8 (AMD). PL 2009, c. 627, §1 (AMD). PL 2011, c. 101, §8 (AMD). PL 2011, c. 287, §1 (AMD). PL 2011, c. 675, §2 (AMD). PL 2011, c. 691, Pt. A, §31 (AMD). PL 2013, c. 184, §2 (AMD).

§5224. Development programs

1. Adoption. The legislative body of a municipality or plantation shall adopt a development program for each development district. The development program must be adopted at the same time as is the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5226. Before adopting a development program, the municipal or plantation legislative body shall consider the factors and evidence specified in section 5223, subsection 2.
[PL 2011, c. 101, §9 (AMD).]

2. Requirements. The development program must include:

A. A financial plan in accordance with subsections 3 and 4; [PL 2001, c. 669, §1 (NEW).]

B. A description of public facilities, improvements or programs to be financed in whole or in part by the development program; [PL 2001, c. 669, §1 (NEW).]

C. A description of commercial facilities, arts districts, transit expansion, improvements or projects to be financed in whole or in part by the development program; [PL 2009, c. 314, §9 (AMD).]

D. Plans for the relocation of persons displaced by the development activities; [PL 2001, c. 669, §1 (NEW).]

E. The proposed regulations and facilities to improve transportation; [PL 2001, c. 669, §1 (NEW).]

F. The environmental controls to be applied; [PL 2001, c. 669, §1 (NEW).]

G. The proposed operation of the development district after the planned capital improvements are completed; [PL 2001, c. 669, §1 (NEW).]

H. The duration of the development district, subject to the following conditions:

(1) A development district that is a tax increment financing district may not exceed a total of 30 tax years beginning with the tax year in which the designation of the development district is effective pursuant to section 5226, subsection 3 or, if specified in the development program, the subsequent tax year; and

(2) A development district that is funded by assessments under section 5228 and that is not a tax increment financing district is not limited in duration unless a limitation on duration is established by the legislative body of the municipality or plantation adopting the development program. Any limitation in the duration of a development district that is not a tax increment financing district and that is established by the legislative body of the municipality or plantation may later be extended by the legislative body; and [PL 2019, c. 140, §1 (RPR).]

I. All documentation submitted to or prepared by the municipality or plantation under section 5223, subsection 2. [PL 2011, c. 101, §10 (AMD).]

[PL 2019, c. 140, §1 (AMD).]

3. Financial plan for development program. The financial plan for a development program must include:

A. Cost estimates for the development program; [PL 2001, c. 669, §1 (NEW).]

B. The amount of public indebtedness to be incurred; [PL 2001, c. 669, §1 (NEW).]

C. Sources of anticipated revenues; and [PL 2001, c. 669, §1 (NEW).]

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the development program. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

4. Financial plan for tax increment financing districts. In addition to the items required by subsection 3, the financial plan for a development program for a tax increment financing district must include the following for each year of the program:

A. Estimates of increased assessed values of the district; [PL 2001, c. 669, §1 (NEW).]

B. The portion of the increased assessed values to be applied to the development program as captured assessed values and resulting tax increments in each year of the program; and [PL 2001, c. 669, §1 (NEW).]

C. A calculation of the tax shifts resulting from designation of the tax increment financing district. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

5. Limitation. For tax increment financing districts, the municipality or plantation may expend the tax increments received for any development program only in accordance with the financial plan. [PL 2011, c. 101, §11 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §4 (AMD). PL 2009, c. 314, §9 (AMD). PL 2011, c. 101, §§9-11 (AMD). PL 2013, c. 184, §3 (AMD). PL 2019, c. 140, §1 (AMD).

§5225. Project costs

(CONFLICT)

1. Authorized project costs. The commissioner shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, public ways, buildings, structures, fixtures and equipment for public, arts district, new or existing recreational trail, commercial or transit-oriented development district use.

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects.

(ii) Eligible recreational trail-related development district capital costs include but are not limited to new or existing trails, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses, signs, crosswalks, signals and warning systems and other related improvements.

(iii) Eligible development district capital costs for public ways include but are not limited to scenic turnouts, signs, railing and other related improvements;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal or plantation employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements; [PL 2011, c. 101, §12 (AMD).]

B. Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) Costs related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to public safety facilities; and amenities on streets;

(2) Costs of public safety improvements related to the establishment of the district; and

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality or plantation and its constituents. This funding may be used for public facilities and improvements if:

(a) The public facilities or improvements are located in a downtown tax increment financing district; and

(b) The entire tax increment from the downtown tax increment financing district is committed to the development program of the tax increment financing district; [PL 2019, c. 148, §2 (AMD).]

C. Costs related to economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails, broadband service development, expansion or improvement, including connecting to broadband service outside the tax increment financing district, employment training or the promotion of workforce development and retention within the municipality or plantation, including, but not limited to:

(1) Costs of funding economic development programs or events developed by the municipality or plantation or funding the marketing of the municipality or plantation as a business or arts location;

(2) Costs of funding environmental improvement projects developed by the municipality or plantation for commercial or arts district use or related to such activities;

(3) Funding to establish permanent economic development revolving loan funds, investment funds and grants;

(4) Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained in the municipality or plantation. These costs must be designated as training funds in the development program;

(5) Costs associated with quality child care facilities and adult care facilities, including finance costs and construction, staffing, training, certification and accreditation costs related to child care and adult care;

(6) Costs associated with new or existing recreational trails determined by the department to have significant potential to promote economic development, including, but not limited to, costs for multiple projects and project phases that may include planning, design, construction, maintenance, grooming and improvements with respect to new or existing recreational trails, which may include bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses;

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

(8) Costs associated with the development of fisheries and wildlife or marine resources projects; and

(9) **(CONFLICT: Text as enacted by PL 2019, c. 148, §3)** Costs related to the construction or operation of municipal or plantation public safety facilities, the need for which is related to general economic development within the municipality or plantation, not to exceed 15% of the captured assessed value of the development district; and

(9) **(CONFLICT: Text as enacted by PL 2019, c. 260, §1 and amended by PL 2019, c. 625, §3)** Costs associated with broadband and fiber optics expansion projects, including preparation, planning, engineering and other related costs in addition to the construction costs of those projects. If an area within a municipality or plantation is unserved with respect to broadband service, as defined by the ConnectMaine Authority as provided in Title 35-A, section 9204-A, subsection 1, broadband and fiber optics expansion projects may serve residential or other nonbusiness or noncommercial areas in addition to business or commercial areas within the municipality or plantation; and [PL 2019, c. 604, §3 (AMD); PL 2019, c. 625, §3 (AMD).]

D. Costs of constructing or improving facilities or buildings leased by State Government or a municipal or plantation government that are located in approved downtown tax increment financing districts. [PL 2011, c. 101, §15 (AMD).]

[PL 2019, c. 604, §3 (AMD); PL 2019, c. 625, §3 (AMD).]

2. Unauthorized project costs. Except as provided in subsection 1, paragraph C, subparagraph (9) and subsection 1, paragraph D, the commissioner may not approve as a project cost the cost of facilities, buildings or portions of buildings used predominantly for the general conduct of government or for public recreational purposes, including, but not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails and other state and local government office buildings, recreation centers, athletic fields and swimming pools.

[PL 2019, c. 148, §4 (AMD).]

3. Limitation. Tax increments received from any development program may not be used to circumvent other tax laws.

[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 413, §§5, 6 (AMD). RR 2009, c. 1, §22 (COR). PL 2009, c. 85, §1 (AMD). PL 2009, c. 126, §1 (AMD). PL 2009, c. 314, §§10, 11 (AMD). PL 2011, c. 101, §§12-15 (AMD). PL 2011, c. 102, §1 (AMD). PL 2011, c. 675, §3 (AMD). PL 2013, c. 184, §4 (AMD). PL 2019, c. 148, §§2-4 (AMD). PL 2019, c. 260, §1 (AMD). PL 2019, c. 604, §3 (AMD). PL 2019, c. 625, §3 (AMD).

§5226. Procedure

1. Notice and hearing. Before designating a development district or adopting a development program, the municipal or plantation legislative body or the municipal or plantation legislative body's designee must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation.

[PL 2011, c. 101, §16 (AMD).]

2. Review by commissioner. Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements. In the case of a downtown tax increment financing district, the Department of Agriculture, Conservation and Forestry and the Department of Transportation shall review the proposal and provide advice to assist the commissioner in making a decision under this subsection.
[PL 2011, c. 655, Pt. JJ, §26 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

3. Effective date. A designation of a tax increment financing district or a development program for a tax increment financing district is effective upon approval by the commissioner. A designation of a development district other than a tax increment financing district is effective upon approval by the municipal or plantation legislative body. A development program other than a development program for a tax increment financing district is effective upon adoption by the municipal or plantation legislative body.
[PL 2013, c. 184, §5 (AMD).]

4. Administration of district. The legislative body of a municipality or plantation may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter.
[PL 2011, c. 101, §18 (AMD).]

5. Amendments. A municipality or plantation may amend a designated development district or an adopted development program only after meeting the requirements of this section for designation of a development district or adoption of a development program. A municipality or plantation may not amend the designation of a development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5223, subsection 3.
[PL 2011, c. 101, §19 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §§16-19 (AMD). PL 2011, c. 655, Pt. JJ, §26 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 184, §5 (AMD).

§5227. Tax increment financing

1. Designation of captured assessed value. A municipality or plantation may retain all or part of the tax increment revenues generated from the increased assessed value of a tax increment financing district for the purpose of financing the development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When a development program for a tax increment financing district is adopted, the municipal or plantation legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor or plantation assessor shall certify the amount of the captured assessed value to the municipality or plantation each year.
[PL 2011, c. 101, §20 (AMD).]

2. Certification of assessed value. On or after formation of a tax increment financing district, the assessor of the municipality or plantation in which it is located shall certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year after the designation of a tax increment financing district, the municipal assessor or plantation assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the tax increment financing district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality or plantation.
[PL 2011, c. 101, §20 (AMD).]

3. Development program fund; tax increment revenues. If a municipality or plantation has designated captured assessed value under subsection 1, the municipality or plantation shall:

A. Establish a development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal or plantation indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund; [PL 2011, c. 101, §20 (AMD).]

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and

(2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account; [PL 2001, c. 669, §1 (NEW).]

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and [PL 2001, c. 669, §1 (NEW).]

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality or plantation, at any time, by vote of the municipal or plantation officers, may return to the municipal or plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation. [PL 2019, c. 607, Pt. A, §1 (AMD).]

[PL 2019, c. 607, Pt. A, §1 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §20 (AMD). PL 2019, c. 607, Pt. A, §1 (AMD).

§5228. Assessments

1. Assessments. A municipality or plantation may estimate and make the following assessments:

A. A development assessment upon lots or property within the development district. The assessment must be made upon lots or property that have been benefited by improvements constructed or created under the development program and may not exceed a just and equitable proportionate share of the cost of the improvement. All revenues from assessments under this paragraph are paid into the appropriate development fund program account established under section 5227, subsection 3; [PL 2001, c. 669, §1 (NEW).]

B. A maintenance assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program and the continued operation of the public facilities. The total maintenance assessments may not exceed the cost of maintenance and operation of the public facilities within the district. The cost of maintenance and operation must be in addition to the cost of maintenance and operation already being performed by the municipality or plantation within the district when the development district was adopted; and [PL 2011, c. 101, §21 (AMD).]

C. An implementation assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program. The implementation assessments may be used to fund activities that, in the opinion of the municipal or plantation legislative body, are reasonably necessary to achieve the purposes of the development program. The activities funded by implementation assessments must be in addition to those already conducted within the district by the municipality or plantation when the development district was adopted. [PL 2011, c. 101, §21 (AMD).]

[PL 2011, c. 101, §21 (AMD).]

2. Notice and hearing. Before estimating and making an assessment under subsection 1, the municipality or plantation must give notice and hold a hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation. The notice must include:

A. The date, time and place of hearing; [PL 2001, c. 669, §1 (NEW).]

B. The boundaries of the development district by legal description; [PL 2001, c. 669, §1 (NEW).]

C. A statement that all interested persons owning real estate or taxable property located within the district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment; [PL 2001, c. 669, §1 (NEW).]

D. The maximum rate of assessments to be extended in any one year; and [PL 2001, c. 669, §1 (NEW).]

E. A statement indicating that a proposed list of properties to be assessed and the estimated assessments against those properties is available at the city or town office or at the office of the assessor. [PL 2001, c. 669, §1 (NEW).]

The notice may include a maximum number of years the assessments will be levied.

[PL 2011, c. 101, §21 (AMD).]

3. Apportionment formula. A municipality or plantation may adopt ordinances apportioning the value of improvements within a development district according to a formula that reflects actual benefits that accrue to the various properties because of the development and maintenance.

[PL 2011, c. 101, §21 (AMD).]

4. Increase of assessments and extension of time limits. A municipality or plantation may increase assessments or extend the specified period after notice and hearing as required under subsection 2.

[PL 2011, c. 101, §21 (AMD).]

5. Collection. Assessments made under this section must be collected in the same manner as municipal or plantation taxes. The constable or municipal tax collector or plantation assessor has all the authority and powers by law to collect the assessments. If any property owner fails to pay any assessment or part of an assessment on or before the dates required, the municipality or plantation has all the authority and powers to collect the delinquent assessments vested in the municipality or plantation by law to collect delinquent municipal or plantation taxes.
[PL 2011, c. 101, §21 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §21 (AMD).

§5229. Rules

The commissioner may adopt rules necessary to carry out the duties imposed by this chapter and to ensure municipal or plantation compliance with this subchapter following designation of a tax increment financing district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 101, §22 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §22 (AMD).

§5230. Grants

A municipality or plantation may receive grants or gifts for any of the purposes of this chapter. The tax increment revenues within a development district may be used as the local match for certain grant programs. [PL 2011, c. 101, §23 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §23 (AMD).

§5231. Bond financing

The legislative body of a municipality or plantation may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the development program within the development district. The plantation or municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5227 or under section 5228, subsection 1 received by the municipality or plantation are pledged for the payment of the activities described in the development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's or plantation's net debt. Nothing in this section restricts the ability of the municipality or plantation to raise revenue for the payment of project costs in any manner otherwise authorized by law. [PL 2013, c. 184, §6 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §24 (AMD). PL 2013, c. 184, §6 (AMD).

§5232. Tax exemption

All publicly owned parking structures and pedestrian skyway systems are exempt from taxation by the municipality or plantation, county and State. This section does not exempt any lessee or person in possession from taxes or assessments payable under Title 36, section 551. [PL 2011, c. 101, §25 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §25 (AMD).

§5233. Advisory board

The legislative body of a municipality or plantation may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed. [PL 2011, c. 101, §26 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §26 (AMD).

§5234. Special provisions

Notwithstanding the provisions of section 5223, subsection 1 and any other provision of law, in the case of investments exceeding $100,000,000 in shipyard facilities in districts authorized prior to June 30, 1999, revenues must be set aside and deposited by the municipality or plantation to the appropriate development program fund account established under section 5227, subsection 3 and expended to satisfy the obligations of the accounts without the need for further action by the municipality or plantation by appropriation or otherwise. Unless otherwise provided by the municipality or plantation in connection with its approval of the district, tax increment revenues on all captured assessed value may not be taken into account for purposes of calculating any limitation on the municipality's or plantation's annual expenditures or appropriations, and the payment of tax increment revenues on captured assessed value is not subject to any limitation or restriction on the municipality's or plantation's authority or power to enter into contracts with respect to making payments for a term equal to the term of the district. [PL 2011, c. 101, §27 (AMD).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2011, c. 101, §27 (AMD).

§5235. Unorganized territory

For the purposes of this chapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. For purposes of section 5228, the State acts as the municipal assessing authority. [PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW).

SUBCHAPTER 2

STATE TAX INCREMENT FINANCING DISTRICTS

§5241. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 669, §1 (NEW).]

1. Base period. "Base period" means the 3 calendar years preceding the calendar year in which an application for approval of a state tax increment financing district is submitted to the commissioner by a municipality.
[PL 2001, c. 669, §1 (NEW).]

2. Affiliated business. "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or [PL 2001, c. 669, §1 (NEW).]

B. Fifty percent of the stock or a controlling interest is directly or indirectly owned by a common owner or owners. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

3. Affiliated group. "Affiliated group" means a designated business and its corresponding affiliated businesses.

[PL 2001, c. 669, §1 (NEW).]

4. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the development program.

[PL 2001, c. 669, §1 (NEW).]

5. Commission.

[PL 2007, c. 395, §30 (RP).]

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

[PL 2001, c. 669, §1 (NEW).]

7. Committee. "Committee" means the Revenue Forecasting Committee established in Title 5, section 1710-E.

[PL 2001, c. 669, §1 (NEW).]

8. Designated business. "Designated business" means a business located within the boundaries of a development district and designated by the municipality as a "designated business" for purposes of state tax increment financing.

[PL 2001, c. 669, §1 (NEW).]

9. Development district. "Development district" means a specified area within the corporate limits of a municipality that has been designated as provided under section 5226 and that is to be developed by the municipality under a development program.

[PL 2001, c. 669, §1 (NEW).]

10. Development program. "Development program" means a statement of means and objectives designed to provide new employment opportunities, retain existing employment, improve or broaden the tax base and improve the physical facilities and structures or the quality of pedestrian and vehicular transportation, as described in section 5224.

[PL 2001, c. 669, §1 (NEW).]

11. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the development program.

[PL 2001, c. 669, §1 (NEW).]

12. Gross state tax increment. "Gross state tax increment" means the difference, if any, between the sales and income tax revenues attributable to the state tax increment financing district for the current period and the sales and income tax revenues attributable to the state tax increment financing district for the base period.

[PL 2001, c. 669, §1 (NEW).]

13. Market area. "Market area" means a geographic region exclusive of a state tax increment financing district that will be affected by the operation of the district.

[PL 2001, c. 669, §1 (NEW).]

14. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 and included in a development program.
[PL 2001, c. 669, §1 (NEW).]

15. State tax increment. "State tax increment" means the net annual gain, if any, in sales tax paid as a result of taxable events occurring within a state tax increment financing district and the net annual gain, if any, in state income taxes withheld as a result of wages paid for labor performed within the district.
[PL 2001, c. 669, §1 (NEW).]

16. State tax increment financing district. "State tax increment financing district" means a type of tax increment financing district, or portion of a district, that uses state tax increment financing under section 5242.
[PL 2001, c. 669, §1 (NEW).]

17. Tax increment financing district. "Tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5227.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW). PL 2007, c. 395, §30 (AMD).

§5242. State tax increment financing

1. Eligibility. Any tax increment financing district designated by a municipality and approved by the commissioner under section 5226, subsection 2 is eligible to be approved as a state tax increment financing district if captured assessed value within the district is created after July 30, 1991, except that, in accordance with subsection 12, no new state tax increment financing district may be created after June 30, 1996.
[PL 2001, c. 669, §1 (NEW).]

2. Procedure for establishing state tax increment financing district. A municipality desiring to establish a state tax increment financing district must apply to the commissioner for approval of the proposed state tax increment financing district. The procedure for application is as follows.

A. The proposed state tax increment financing district must be approved locally by vote of the municipal officers of the municipality within which the proposed district will be located. Before approving a state tax increment financing district, the municipal officers must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the county in which the municipality is located. [PL 2001, c. 669, §1 (NEW).]

B. The municipal officers shall adopt for the proposed state tax increment financing district a development program that identifies all designated businesses within the district and sets forth the amount of sales tax paid by designated businesses in connection with operations within the proposed district, the number of employees at designated businesses and the total state income taxes withheld by designated businesses for the base period. The development program may be combined with or integrated into the development program for the underlying municipal development district pursuant to subchapter I or may be separately stated, maintained and implemented. The development program may specify the allocable shares of the municipality and each designated business for liability for refund of the state tax increment revenues resulting from an audit. That allocation may be made by any means determined by the municipal officers to reasonably reflect the economic benefit derived from operation of the district. [PL 2001, c. 669, §1 (NEW).]

C. Prior to approval of the proposed state tax increment financing district, the committee shall estimate the annual amount to be deposited in the state tax increment contingent account pursuant to subsection 6 for all existing state tax increment financing districts, including the proposed district, and that estimate may be used only in determining compliance with the limitations imposed under subsection 8, paragraphs C and D. [PL 2001, c. 669, §1 (NEW).]

D. The municipality, acting through its municipal officers or their designee, shall submit an application to the commissioner on such form or forms and with such supporting data as the commissioner requires for approval of the proposed state tax increment financing district, including without limitation certifications by the designated businesses as to the average annual number of persons employed by each designated business within the boundaries of the proposed district, the average total state income taxes withheld by designated businesses during the base period and the average annual amount of sales tax remittances paid by each designated business from operations within the boundaries of the proposed district during the base period. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

3. Approval. Prior to issuing a certificate of approval for any state tax increment financing district, the commissioner must determine that:

A. The economic development described in the development program will not go forward without the approval of the state tax increment financing district. This requirement does not apply to the addition of state tax increment financing provisions to municipal development districts that are created prior to June 30, 1992; [PL 2001, c. 669, §1 (NEW).]

B. The proposed district will make a contribution to the economic growth of the State, the control of pollution in the State or the betterment of the health, welfare or safety of the inhabitants of the State; and [PL 2001, c. 669, §1 (NEW).]

C. The economic development described in the development program will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider, pursuant to Title 5, chapter 375, subchapter 2, those factors the commissioner determines necessary to measure and evaluate the effect of the proposed district on existing businesses, including:

(1) Whether a proposed district should be approved if, as a result of the benefits to designated businesses, 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 businesses; and

(2) Whether any adverse economic effect of the proposed district on existing businesses is outweighed by the contribution described in paragraph B.

The municipality has the burden of demonstrating that the proposed district will not result in a substantial detriment to existing businesses in accordance with the requirements of this paragraph, including rules adopted pursuant to this paragraph, except that, when no interested parties object to the proposed district, the requirements of this paragraph are deemed satisfied. Interested parties must be given an opportunity, with or without a hearing at the discretion of the commissioner, to present their objections to the proposed district on grounds that the proposed district will result in a substantial detriment to existing businesses. If any interested party presents objections with reasonable specificity and persuasiveness, the commissioner may divulge any information concerning the economic development described in the development program that the commissioner considers necessary for a fair presentation by the objecting party and an evaluation of those objections. If the commissioner finds that the municipality has failed to meet its burden as specified in this paragraph, the application must be denied.

Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Upon approval of the state tax increment financing district, the commissioner shall issue a certificate of approval.
[RR 2001, c. 2, Pt. A, §40 (COR).]

4. Retained state tax revenues. The following provisions govern retained state tax revenues.

A. On or before April 15th of each year, designated businesses located within a state tax increment financing district shall report the amount of sales tax paid in connection with operations within the district, the number of employees within the district, the state income taxes withheld from employees within the district for the immediately preceding calendar year and any further information the State Tax Assessor may reasonably require.

On or before June 30th of each year, the State Tax Assessor shall determine the state tax increment of a district for the preceding calendar year. [PL 2001, c. 669, §1 (NEW).]

B. A municipality may receive up to 25% of the state tax increment revenues generated by or at designated businesses within a state tax increment financing district as determined by the State Tax Assessor subject to the further limitations in subsection 8, and that amount is referred to in this section as "retained state tax increment revenues." [PL 2001, c. 669, §1 (NEW).]
[PL 2001, c. 669, §1 (NEW).]

5. Calculation of state tax increment. The State Tax Assessor shall calculate a state tax increment for a particular state tax increment financing district by:

A. Determining the gross state tax increment as applicable to the particular district; [PL 2001, c. 669, §1 (NEW).]

B. Determining the state tax increment as applicable to the particular district by removing from the gross state tax increment:

(1) Revenues attributed to business activity shifted from affiliated businesses to the state tax increment financing district. This adjustment is calculated by comparing the current year's sales and income tax revenues for each designated business that is a member of an affiliated group with revenues for the group as a whole. If the growth in sales and income tax revenue for the entire group exceeds the growth of sales and income tax revenue generated by the designated business, the gross state tax increment does not have to be adjusted to remove business activity shifted from affiliated businesses. If the growth in sales and income tax revenue for the affiliated group is less than the growth in sales and income tax revenue for the designated business, the difference is presumed to have been shifted from affiliated businesses to the designated business and the gross state tax increment for the district is reduced by the difference; and

(2) Revenues attributed to normal growth. This adjustment is calculated by subtracting from the gross state tax increment a figure obtained by multiplying the previous year's total amount of sales taxes reported and income taxes withheld by designated businesses within the district by the percentage change in sales tax receipts and withholding taxes for all businesses within the State as a whole; [PL 2001, c. 669, §1 (NEW).]

C. Offsetting designated businesses with negative tax increments with those with positive increments in determining the state tax increment for the district as a whole; and [PL 2001, c. 669, §1 (NEW).]

D. Excluding all income tax revenue in calculating the state tax increment attributable to retail business operations. [PL 2001, c. 669, §1 (NEW).]
[PL 2001, c. 669, §1 (NEW).]

6. State tax increment contingent account created. The Commissioner of Administrative and Financial Services shall establish, maintain and administer the state tax increment contingent account. On or before June 30th of each year, the Commissioner of Administrative and Financial Services shall deposit an amount equal to the total retained state tax increment revenues for the preceding calendar year for approved state tax increment financing districts in the state tax increment contingent account. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay to each municipality an amount equal to the retained state tax increment revenues for the preceding calendar year from all state tax increment financing districts located within that municipality. [PL 2001, c. 669, §1 (NEW).]

7. Application of payment to municipalities. All retained state tax increment revenues paid to a municipality must be deposited in the appropriate development program fund established in section 5227, subsection 3 and invested, used and applied in the manner described in the development program, except that:

A. The amount of retained state tax increment revenues paid to a municipality may not exceed the amount of tax increment revenues generated by the municipality pursuant to section 5227, subsection 3 and required to be deposited in a development program fund account; and [PL 2001, c. 669, §1 (NEW).]

B. All retained state tax increment revenues not required to satisfy the estimated obligations of the development program fund account revert to the State. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

8. Limitations. The following limitations apply.

A. A state tax increment financing district may apply only to designated businesses involved in nonretail commercial activities, including, but not limited to, manufacturing, wholesaling, warehousing, distribution, office, administration and other service-related commercial activities. Notwithstanding this paragraph, a state tax increment financing district may apply to designated businesses involved in retail commercial activities pursuant to subsection 9. The state tax increment must be calculated pursuant to this section. [PL 2001, c. 669, §1 (NEW).]

B. A development program for a state tax increment financing district must identify all designated businesses within the district and specify the direct financial benefits to be provided to the designated businesses, if any. A municipality may designate a business relocating from another location in this State, when that relocation involves moving the locus of employment and sales, only if the municipal officers find that the relocation will result in an increase in the amount of sales or the number of employees of the business above the average annual sales and employment levels at the prior location during the base period. When such a relocating business is designated, the sales tax, the number of employees and the state income taxes withheld for the base period must be those reported in the development program for that business at its prior location. [PL 2001, c. 669, §1 (NEW).]

C. The retained state tax increment revenues attributable to an individual state tax increment financing district may not exceed 10% of the aggregated total allowed within the state tax increment contingent account. [PL 2001, c. 669, §1 (NEW).]

D. At no time may the aggregate annual retained state tax increment revenues for all state tax increment financing districts exceed $20,000,000. [PL 2001, c. 669, §1 (NEW).]

E. A transfer of ownership interest in or any of the assets of an existing business may not be construed as creating newly generated state tax revenues except to the extent of actual increase in the amount of sales or the number of employees above the average annual sales and employment levels during the base period. [PL 2001, c. 669, §1 (NEW).]

F. State tax increment revenues received by a municipality pursuant to subsection 4 may be used by the municipality to offset up to 1/2 of existing tax increment financing obligations arising under section 5227. [PL 2001, c. 669, §1 (NEW).]

G. State tax increment revenues received by a municipality with respect to a particular state tax increment financing district pursuant to subsection 4 may not exceed the amount of estimated state tax increment revenues contained in the district's development program approved by the commissioner pursuant to subsection 2. [PL 2001, c. 669, §1 (NEW).]

[PL 2001, c. 669, §1 (NEW).]

9. Districts containing retail business operations. The commissioner shall approve a state tax increment financing district in which a retail business operation is a designated business upon making a factual determination that the following conditions are satisfied:

A. The district will result in total annual sales tax revenues equal to or greater than $3,000,000 or the district involves, aids or otherwise relates to downtown redevelopment. For purposes of this subsection, "downtown redevelopment" means any rehabilitation or improvement of an area described in the development program that has been used primarily for retail trade and related purposes for at least 25 years, is identified in the municipality's comprehensive plan or zoning ordinance as an area designated for retail trade and related uses and is a blighted area or an area in need of rehabilitation or redevelopment; and [PL 2001, c. 669, §1 (NEW).]

B. A state tax increment is likely to result from the district and that increment will not include sales tax revenues derived from a transferring or shifting of retail sales from another geographic area within the State to the district. [PL 2001, c. 669, §1 (NEW).]

The municipality making the application bears the burden of proving to the commissioner by a preponderance of the evidence that the district satisfies the criteria under paragraphs A and B. For purposes of this subsection, "retail business operation" means a business location engaged in making retail sales of consumer goods for household use to consumers who personally visit the location to purchase the goods.

[PL 2001, c. 669, §1 (NEW).]

10. Duration of state designation. State tax increment financing districts have a maximum duration of 10 years.

[PL 2001, c. 669, §1 (NEW).]

11. Program; administration. The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility and, in consultation with the State Tax Assessor, the amount of the tax increment attributable to particular districts. The commissioner may also establish by rule fees for administration of the program, including fees payable to the State Tax Assessor for obligations under this Part. All fees collected pursuant to this subsection must be deposited into the General Fund. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 2001, c. 669, §1 (NEW).]

12. Designation of new state tax increment financing districts prohibited. The designation of new state tax increment financing districts is prohibited, subject to review by the joint standing committees of the Legislature having jurisdiction over economic development and taxation matters. Designation of new state tax increment financing districts may be resumed only by act of the Legislature.

[PL 2001, c. 669, §1 (NEW).]

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

A. Any record obtained or developed by a municipality, the commissioner or the State Tax Assessor for designation or approval of a state tax increment financing district. After receipt by the municipality, the commissioner or the State Tax Assessor of the application or proposal, a record pertaining to the application or proposal is not considered confidential unless it meets the requirements of paragraphs B to F; [PL 2001, c. 669, §1 (NEW).]

B. Any record obtained or developed by a municipality, the commissioner or the State Tax Assessor when:

(1) A person, which may include a municipality, to whom the record belongs or pertains has requested that the record be designated confidential; or

(2) The municipality has determined that information in the record gives the owner or a user of that information an opportunity to obtain business or competitive advantage over another person who does not have access to the information or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains; [PL 2001, c. 669, §1 (NEW).]

C. Any record, including any financial statement or tax return, obtained or developed by the municipality, the commissioner or the State Tax Assessor, the disclosure of which would constitute an invasion of personal privacy, as determined by the governmental entity in possession of that record or information; [PL 2001, c. 669, §1 (NEW).]

D. Any record, including any financial statement or tax return, obtained or developed by the municipality, the commissioner or the State Tax Assessor in connection with any monitoring or servicing activity by the municipality, the commissioner or the State Tax Assessor that pertains to a state tax increment financing district; [PL 2001, c. 669, §1 (NEW).]

E. Any record obtained or developed by the municipality, the commissioner or the State Tax Assessor that contains an assessment by a person who is not employed by that municipality or the State of the creditworthiness or financial condition of any person or project; and [PL 2001, c. 669, §1 (NEW).]

F. Any financial statement if a person to whom the statement belongs or pertains has requested that the record be designated confidential. [PL 2001, c. 669, §1 (NEW).]

A person may not knowingly divulge or disclose records determined confidential by this subsection.
[PL 2001, c. 669, §1 (NEW).]

14. Audit process. Nothing in this section may be construed to limit the State Tax Assessor's authority to conduct an audit of any taxpayer included as a designated business in a development program pursuant to subsection 2, paragraph B. If distributions are made to a municipality with respect to a state tax increment financing district, the designated businesses within that district are subject to audit. When it is determined by the State Tax Assessor upon audit that a municipality has received a distribution larger than that to which it is entitled under this section, the overpayment must be applied against subsequent distributions. When there is not a subsequent distribution, the designated business or businesses to which overpayments were made are liable for the amount of the overpayments and may be assessed pursuant to Title 36.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

RR 2001, c. 2, §A40 (COR). PL 2001, c. 669, §1 (NEW).

§5243. Development program fund; state tax increment revenues

If a municipality has designated captured assessed value under section 5227, subsection 1, the municipality shall annually set aside all state tax increment revenues payable to the municipality for

public purposes and deposit all such revenues to the appropriate development program fund account in the following priority: [PL 2001, c. 669, §1 (NEW).]

1. Development sinking fund account. To the development sinking fund account established pursuant to section 5227, subsection 3, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and
[PL 2001, c. 669, §1 (NEW).]

2. Project cost account. To the project cost account established pursuant to section 5227, subsection 3, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account.
[PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW).

§5244. Previously designated districts

Development districts and development programs designated before the effective date of this chapter remain in effect as authorized by law at the time of their designation and are governed by former chapter 207 as it existed immediately before its repeal except to the extent of any amendments to such development districts and development programs that are made in accordance with this chapter. [PL 2001, c. 669, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 669, §1 (NEW).

SUBCHAPTER 3

MUNICIPAL AFFORDABLE HOUSING DEVELOPMENT DISTRICTS

§5245. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in Maine municipalities.
[PL 2003, c. 426, §1 (NEW).]

2. Authorization. For the reasons set out in subsection 1, a municipality may develop a program to provide impetus for affordable housing development within a district of the municipality, as provided in the comprehensive plan adopted by the legislative body of the municipality.
[PL 2003, c. 426, §1 (NEW).]

3. Declaration of public purpose. It is declared that the actions required to assist the implementation of affordable housing development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5246. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 426, §1 (NEW).]

1. Affordable housing. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.
[RR 2017, c. 1, §27 (COR).]

2. Affordable housing development district. "Affordable housing development district" or "district" means a specified area within the corporate limits of a municipality that has been designated as provided under sections 5247 and 5250 to be developed under an affordable housing development program and financed under section 5250-A.
[PL 2003, c. 426, §1 (NEW).]

3. Affordable housing development program. "Affordable housing development program" or "program" means a statement of means and objectives designed to encourage the development and maintenance of affordable housing within an affordable housing development district.
[PL 2003, c. 426, §1 (NEW).]

4. Amenities. "Amenities" means items of street furniture, signs and landscaping, including, but not limited to, plantings, benches, trash receptacles, street signs, sidewalks and pedestrian malls.
[PL 2003, c. 426, §1 (NEW).]

5. Authority. "Authority" means the Maine State Housing Authority.
[PL 2003, c. 426, §1 (NEW).]

6. Captured assessed value. "Captured assessed value" means the amount, as a percentage or stated sum, of increased assessed value that is utilized from year to year to finance the project costs contained within the affordable housing development program.
[PL 2003, c. 426, §1 (NEW).]

7. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal assessor as of April 1st of each year that the affordable housing development district remains in effect.
[PL 2003, c. 426, §1 (NEW).]

8. Director. "Director" means the Director of the Maine State Housing Authority.
[PL 2003, c. 426, §1 (NEW).]

9. Financial plan. "Financial plan" means a statement of the project costs and sources of revenue required to accomplish the affordable housing development program.
[PL 2003, c. 426, §1 (NEW).]

10. Increased assessed value. "Increased assessed value" means the valuation amount by which the current assessed value of an affordable housing development district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no increased assessed value.
[PL 2003, c. 426, §1 (NEW).]

11. Maintenance and operation. "Maintenance and operation" means all activities necessary to maintain affordable housing after development and all activities necessary to operate the affordable housing, including, but not limited to, informational, promotional, safety and surveillance activities.
[PL 2003, c. 426, §1 (NEW).]

12. Original assessed value. "Original assessed value" means the assessed value of an affordable housing development district as of March 31st of the tax year preceding the year in which it was designated, and, for affordable housing development districts designated on or after April 1, 2014, "original assessed value" means the taxable assessed value of an affordable housing development

district as of March 31st of the tax year preceding the year in which it was designated by the municipality or plantation.
[PL 2013, c. 312, §1 (AMD).]

13. Project costs. "Project costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5249, subsection 1 and included in an affordable housing development program.
[PL 2003, c. 426, §1 (NEW).]

14. Tax increment. "Tax increment" means real property taxes assessed by a municipality, in excess of any state, county or special district tax, upon the increased assessed value of property in the affordable housing development district.
[PL 2003, c. 426, §1 (NEW).]

15. Tax shifts. "Tax shifts" means the effect on a municipality's state revenue sharing, education subsidies and county tax obligations that results from the designation of an affordable housing development district and the capture of increased assessed value.
[PL 2003, c. 426, §1 (NEW).]

16. Tax year. "Tax year" means the period of time beginning on April 1st and ending on the succeeding March 31st.
[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §1 (AMD). RR 2017, c. 1, §27 (COR).

§5247. Affordable housing development districts

1. Creation. A municipal legislative body may designate an affordable housing development district within the boundaries of the municipality in accordance with the requirements of this subchapter. If the municipality has a charter, the designation of an affordable housing development district may not be in conflict with the provisions of the municipal charter.
[PL 2003, c. 426, §1 (NEW).]

2. Considerations for approval. Before designating an affordable housing development district within the boundaries of a municipality, or before establishing an affordable housing development program for a designated affordable housing development district, the legislative body of a municipality must consider whether the proposed district or program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5250, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing property interests in the municipality and produces substantial evidence to that effect, the legislative body shall consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing property interests in the municipality is outweighed by the contribution made by the district or program to the availability of affordable housing within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.
[PL 2003, c. 426, §1 (NEW).]

3. Conditions for approval. Designation of an affordable housing development district is subject to the following conditions.

A. At least 25%, by area, of the real property within an affordable housing development district must:

(1) Be suitable for residential use;

(2) Be a blighted area; or

(3) Be in need of rehabilitation or redevelopment. [PL 2003, c. 426, §1 (NEW).]

B. The affordable housing development district is subject to the area cap established in section 5223, subsection 3, paragraph B. [PL 2003, c. 426, §1 (NEW).]

C. The original assessed value of a proposed affordable housing development district plus the original assessed value of all existing affordable housing development districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the director's approval of the designation of the proposed affordable housing development district. [PL 2003, c. 426, §1 (NEW).]

D. [PL 2013, c. 312, §2 (RP).]

E. The affordable housing development program must show that the development meets an identified community housing need. The affordable housing development program must provide a mechanism to ensure the ongoing affordability for a period of at least 10 years for single-family, owner-occupied units and 30 years for rental units. [PL 2003, c. 426, §1 (NEW).]

F. [PL 2013, c. 312, §2 (RP).]

G. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable housing and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development. [PL 2003, c. 426, §1 (NEW).]

[PL 2013, c. 312, §2 (AMD).]

4. Powers of municipality. Within an affordable housing development district and consistent with an affordable housing development program, a municipality may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the affordable housing development program. Pursuant to the affordable housing development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the affordable housing development district. The municipality may install public improvements.

[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §2 (AMD).

§5248. Affordable housing development programs

1. Adoption. The legislative body of a municipality shall adopt an affordable housing development program for each affordable housing development district. The affordable housing development program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5250. Before adopting an affordable housing development program, the municipal legislative body shall consider the factors and evidence specified in section 5247.

[PL 2003, c. 426, §1 (NEW).]

2. Requirements. The affordable housing development program must include:

A. A financial plan in accordance with subsection 3; [PL 2003, c. 426, §1 (NEW).]

B. A description of facilities, improvements or programs to be financed in whole or in part by the affordable housing development program; [PL 2003, c. 426, §1 (NEW).]

C. Plans for the relocation of persons displaced by the development activities; [PL 2003, c. 426, §1 (NEW).]

D. The environmental controls to be applied; [PL 2003, c. 426, §1 (NEW).]

E. The proposed operation of the affordable housing development district after the planned improvements are completed; [PL 2003, c. 426, §1 (NEW).]

F. An assurance that the program complies with section 4349-A; [PL 2003, c. 426, §1 (NEW).]

G. The duration of the program, which may start during any tax year specified in the approval of the affordable housing development program by a municipal legislative body, except that the program may not exceed 30 years after the tax year in which the designation of the district is approved by the director as provided in section 5250, subsection 3; and [PL 2013, c. 312, §3 (AMD).]

H. All documentation submitted to or prepared by the municipality under section 5247, subsection 2. [PL 2003, c. 426, §1 (NEW).]

[PL 2013, c. 312, §3 (AMD).]

3. Financial plan for affordable housing development district. The financial plan for an affordable housing development district must include:

A. Cost estimates for the affordable housing development program; [PL 2003, c. 426, §1 (NEW).]

B. The amount of public indebtedness to be incurred; [PL 2003, c. 426, §1 (NEW).]

C. Sources of anticipated revenues; [PL 2003, c. 426, §1 (NEW).]

D. A description of the terms and conditions of any agreements, contracts or other obligations related to the affordable housing development program; and [PL 2003, c. 426, §1 (NEW).]

E. For each year of the affordable housing development program:

(1) Estimates of increased assessed values of the district;

(2) The portion of the increased assessed values to be applied to the affordable housing development program as captured assessed values and resulting tax increments in each year of the program; and

(3) A calculation of the tax shifts resulting from designation of the affordable housing development district. [PL 2003, c. 426, §1 (NEW).]

[PL 2003, c. 426, §1 (NEW).]

4. Limitation. For affordable housing development districts, a municipality may expend the tax increments received for any affordable housing development program only in accordance with the financial plan.

[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §3 (AMD).

§5249. Project costs

1. Authorized project costs. The director shall review proposed project costs to ensure compliance with this subsection. Authorized project costs are:

A. Costs of improvements made within the affordable housing development district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition of land or construction of public infrastructure improvements for affordable housing development;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of an affordable housing development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans;

(8) Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools;

(9) Costs for child care, including finance costs and construction, staffing, training, certification and accreditation costs related to child care located in the affordable housing development district;

(10) Costs of case management and support services; and

(11) Operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account; and [PL 2013, c. 312, §4 (AMD).]

B. Costs of improvements that are made outside the affordable housing development district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district;

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality and its constituents. This funding may be used for funding public kindergarten to grade 12 costs and public facilities and improvements; and

(4) Costs to establish permanent housing development revolving loan funds or investment funds. [PL 2003, c. 426, §1 (NEW).]

[PL 2013, c. 312, §4 (AMD).]

2. Limitation. Tax increments received from any affordable housing development program may not be used to circumvent other tax laws.

[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §4 (AMD).

§5250. Procedure

1. Notice and hearing. Before designating an affordable housing development district or adopting an affordable housing development program, the municipal legislative body or the municipal legislative body's designee must hold at least one public hearing on the proposed district. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

[PL 2003, c. 426, §1 (NEW).]

2. Review by director. Before final designation of an affordable housing development district, the director shall review the proposal for the district to ensure that the proposal complies with statutory requirements.

[PL 2003, c. 426, §1 (NEW).]

3. Effective date. A designation of an affordable housing development district is effective upon approval by the director.

[PL 2003, c. 426, §1 (NEW).]

4. Administration of district. The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this subchapter.

[PL 2003, c. 426, §1 (NEW).]

5. Amendments. A municipality may amend a designated affordable housing development district or an adopted affordable housing development program only after meeting the requirements of this section for designation of an affordable housing development district or adoption of an affordable housing development program. A municipality may not amend the designation of an affordable housing development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5247, subsection 3.

[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-A. Affordable housing tax increment financing

1. Designation of captured assessed value. A municipality may retain all or part of the tax increment revenues generated from the increased assessed value of an affordable housing development district for the purpose of financing the affordable housing development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When an

affordable housing development program for an affordable housing development district is adopted, the municipal legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the affordable housing development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.
[PL 2003, c. 426, §1 (NEW).]

2. Certification of assessed value. Upon or after the formation of an affordable housing development district, the assessor of the municipality in which the district is located shall certify the original assessed value of the taxable property within the boundaries of the affordable housing development district. Each year after the designation of an affordable housing development district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the affordable housing development district pays real property taxes apportioned equally with property taxes paid elsewhere in the municipality.
[PL 2003, c. 426, §1 (NEW).]

3. Affordable housing development program fund; affordable housing tax increment revenues. If a municipality has designated captured assessed value under subsection 1, the municipality shall:

A. Establish an affordable housing development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the affordable housing development program fund; [PL 2003, c. 426, §1 (NEW).]

B. Annually set aside all affordable housing tax increment revenues on captured assessed values and deposit all such revenues to the appropriate affordable housing development program fund account established under paragraph A in the following order of priority:

(1) To the affordable housing development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5250-D and the financial plan; and

(2) To the affordable housing project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual affordable housing project costs to be paid from the account; [PL 2003, c. 426, §1 (NEW).]

C. Make transfers between affordable housing development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the affordable housing development sinking fund account that is insufficient to cover the annual obligations of that account; and [PL 2003, c. 426, §1 (NEW).]

D. Annually return to the municipal general fund any tax increment revenues remaining in the affordable housing development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality, at any time, by vote of the municipal officers, may return to the municipal general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality. [PL 2019, c. 607, Pt. A, §2 (AMD).]

[PL 2019, c. 607, Pt. A, §2 (AMD).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2019, c. 607, Pt. A, §2 (AMD).

§5250-B. Rules

The director may adopt rules necessary to carry out the duties imposed by this subchapter and to ensure municipal compliance with this subchapter following designation of an affordable housing development district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-C. Grants

A municipality may receive grants or gifts for any of the purposes of this subchapter. The tax increment revenues within an affordable housing development district may be used as the local match for certain grant programs. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-D. Bond financing

The legislative body of a municipality may authorize, issue and sell bonds, including but not limited to general obligation or revenue bonds or notes, that mature within 30 years from the date of issue to finance all project costs needed to carry out the affordable housing development program within the affordable housing development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5250-A received by the municipality are pledged for the payment of the activities described in the affordable housing development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in any manner otherwise authorized by law. [PL 2013, c. 312, §5 (AMD).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW). PL 2013, c. 312, §5 (AMD).

§5250-E. Administration

1. Reports. The legislative body of a municipality must report annually to the director regarding the status of an affordable housing development district. The report must:

A. Certify that the public purpose of the affordable housing district, as outlined in this subchapter, is being met; [PL 2003, c. 426, §1 (NEW).]

B. Account for any sales of property within the district; and [PL 2003, c. 426, §1 (NEW).]

C. Certify that rental units within the affordable housing development district have remained affordable. [PL 2003, c. 426, §1 (NEW).]

[PL 2003, c. 426, §1 (NEW).]

2. Recovery of public funds. The authority shall develop by rule provisions for recovery of public revenue if conditions for approval of an affordable housing development district are not maintained for the duration of the district. Rules adopted by the authority pursuant to this subsection must be submitted to the Legislature in accordance with Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-F. Advisory board

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the affordable housing development district they serve. The advisory board shall advise the legislative body on the planning and implementation of the affordable housing development program, the construction of the district and the maintenance and operation of the district after the program has been completed. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

§5250-G. Unorganized territory

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate affordable housing development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory fund receives the funds designated for the municipal general fund. [PL 2003, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 426, §1 (NEW).

SUBCHAPTER 3

PINE TREE DEVELOPMENT ZONES

§5245. Findings and declaration of necessity

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5246. Definitions

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5247. Pine Tree Development Zones

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5248. Procedure

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 610, §1 (AMD). PL 2003, c. 688, §D1 (RP).

§5249. Selection criteria

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250. Program administration; rules

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250-A. Unorganized territory

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250-B. Certification of qualified business

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

§5250-C. Report

(REPEALED)

SECTION HISTORY

PL 2003, c. 451, §NNN2 (NEW). PL 2003, c. 688, §D1 (RP).

SUBCHAPTER 4

PINE TREE DEVELOPMENT ZONES

§5250-H. Findings and declaration of necessity

1. Legislative finding. The Legislature finds that there is a need to encourage development in economically distressed areas of the State in order to:

A. Provide new employment opportunities; [PL 2003, c. 688, Pt. D, §2 (NEW).]

B. Improve existing employment opportunities; [PL 2003, c. 688, Pt. D, §2 (NEW).]

C. Improve and broaden the tax base; and [PL 2003, c. 688, Pt. D, §2 (NEW).]

D. Improve the general economy of the State. [PL 2003, c. 688, Pt. D, §2 (NEW).]
[PL 2003, c. 688, Pt. D, §2 (NEW).]

2. Authorization. For the reasons set out in subsection 1, a unit of local government, or 2 or more cooperating units of local government, may develop a program for improving a district within its collective boundaries:

A. To provide impetus for targeted business development; [PL 2003, c. 688, Pt. D, §2 (NEW).]

B. To increase employment; and [PL 2003, c. 688, Pt. D, §2 (NEW).]

C. To provide the facilities outlined in the development program adopted by the participating units of local government. [PL 2003, c. 688, Pt. D, §2 (NEW).]
[PL 2003, c. 688, Pt. D, §2 (NEW).]

3. Declaration of public purpose. The Legislature declares that the actions required to assist the implementation of these development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW).

§5250-I. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 688, Pt. D, §2 (NEW).]

1. Affiliated business. "Affiliated business" means a member of a group of 2 or more businesses in which more than 50% of the voting stock of each member corporation or more than 50% of the ownership interest in a business other than a corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member businesses.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

2. Applicant.
[PL 2009, c. 461, §2 (RP).]

3. Average employment during base period. "Average employment during the base period" for a business means the total number of employees of that business as of each March 31st, June 30th, September 30th and December 31st of the base period, divided by 12.
[PL 2005, c. 351, §1 (AMD).]

4. Base level of employment. "Base level of employment" means the greater of either the total employment in the State of a business as of March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the year of the business's application to become a certified Pine Tree Development Zone business divided by 4 or its average employment during the base period. Pursuant to section 5250-J, subsection 4-A, "base level of employment" may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence.

Pursuant to section 5250-J, subsection 4-C, "base level of employment" must be adjusted for a qualified business that has more than one location in the State and creates 250 or more jobs at one of these locations, so that the base level of employment is calculated from the location of the significant employment expansion of 250 jobs or more on the basis of that specific location.
[PL 2009, c. 461, §3 (AMD).]

5. Base period. "Base period" means the 3 calendar years prior to the year in which a business applies to be certified as a qualified Pine Tree Development Zone business.
[PL 2005, c. 351, §1 (AMD).]

5-A. Catastrophic occurrence. "Catastrophic occurrence" means accidental fire, flood, hurricane, windstorm, earthquake or other similar event.
[PL 2009, c. 21, §2 (NEW).]

5-B. Call center. "Call center" means a business enterprise that employs 50 or more full-time employees for the purpose of customer service.
[PL 2015, c. 368, §1 (NEW).]

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

7. Department. "Department" means the Department of Economic and Community Development.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

7-A. Experiential tourism. "Experiential tourism" means tourism that allows individuals to be active participants in outdoor recreational activities including but not limited to: hiking, camping, birding and other wildlife viewing, nature photography, visits to historical and cultural sites and museums, nature tourism, adventure tourism and ecotourism.
[PL 2007, c. 466, Pt. A, §52 (AMD).]

8. Financial services. "Financial services" means services provided by an insurance company subject to taxation under Title 36, chapter 357; a captive insurance company formed or licensed under Title 24-A, chapter 83; a financial institution subject to taxation under Title 36, chapter 819; or a mutual fund service provider.
[PL 2019, c. 401, Pt. C, §2 (AMD).]

9. Labor market average weekly wage. "Labor market average weekly wage" means the average weekly wage as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §4 (AMD).]

10. Labor market unemployment rate. "Labor market unemployment rate" means the average unemployment rate as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §5 (AMD).]

11. Manufacturing. "Manufacturing" means:

A. The production of tangible personal property intended to be sold or leased ultimately for final use or consumption; [PL 2009, c. 461, §6 (NEW).]

B. The production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof; or [PL 2009, c. 461, §6 (NEW).]

C. To make, process, convert or transform raw materials, components or parts into finished goods or products for final use or consumption to meet customer expectations or specifications. [PL 2009, c. 461, §6 (NEW).]
[PL 2009, c. 461, §6 (RPR).]

11-A. Military redevelopment zone. "Military redevelopment zone" means a specified area within a municipality that is contained within a labor market that includes a military facility that sustained a loss of 400 or more employed workers, if the loss was caused by a federal military facility

closure or downsizing, during the 5-year period immediately preceding the time of application for designation as a military redevelopment zone, or is projected to sustain a loss of 400 or more employed workers during the 5-year period immediately following the time of application, and has been designated by the commissioner as a military redevelopment zone under section 5250-J, subsection 3-A.
[PL 2009, c. 461, §7 (AMD).]

11-B. Mutual fund service provider. "Mutual fund service provider" means a taxpayer, as defined in Title 36, section 111, subsection 7, subject to tax under Title 36, Part 8 other than a financial institution as defined in Title 36, section 5206-D, subsection 8, that derives more than 50% of its gross income from the direct or indirect provision of management, distribution or administration services to or on behalf of a regulated investment company or from trustees, sponsors and participants of employee benefit plans that have accounts in a regulated investment company.
[PL 2019, c. 401, Pt. C, §3 (NEW).]

12. Person.
[PL 2007, c. 627, §1 (RP).]

13. Pine Tree Development Zone. "Pine Tree Development Zone" or "zone" means a specified area within the boundaries of the State that has been designated by the commissioner as a Pine Tree Development Zone in accordance with section 5250-J, subsection 3-A or 3-B.
[PL 2009, c. 461, §8 (AMD).]

14. Pine Tree Development Zone benefits. "Pine Tree Development Zone benefits" means:

A. The exclusion from the limitations established under section 5223, subsection 3 of tax increment financing districts included within a Pine Tree Development Zone; [PL 2003, c. 688, Pt. D, §2 (NEW).]

B. Expanded employment tax increment financing benefits under Title 36, chapter 917; [PL 2003, c. 688, Pt. D, §2 (NEW).]

C. The sales tax exemption under Title 36, section 1760, subsection 87 and the sales tax reimbursement under Title 36, section 2016; [PL 2005, c. 351, §2 (AMD).]

D. The Pine Tree Development Zone tax credits provided by Title 36, sections 2529 and 5219-W; [PL 2005, c. 351, §2 (AMD).]

E. Discounted rates approved by the Public Utilities Commission, if applicable, and offered by transmission and distribution utilities as authorized under Title 35-A, section 3210-E, subsection 1; and [PL 2009, c. 627, §3 (AMD).]

F. Line extensions and conservation programs approved or authorized under Title 35-A, section 3210-E. [PL 2009, c. 627, §4 (AMD).]
[PL 2009, c. 627, §§3, 4 (AMD).]

15. Production.
[PL 2007, c. 627, §2 (RP).]

16. Qualified business activity. "Qualified business activity" means a business activity that is conducted within a Pine Tree Development Zone and is directly related to financial services, manufacturing or a targeted technology business for which the business receives a letter of certification from the commissioner pursuant to section 5250-O.
[PL 2017, c. 440, §1 (AMD).]

17. Qualified Pine Tree Development Zone business. "Qualified Pine Tree Development Zone business" or "qualified business" means any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business that has added or will

add at least one qualified Pine Tree Development Zone employee above its base level of employment in this State and that meets the following criteria:

A. It demonstrates that the establishment or expansion of operations within the Pine Tree Development Zone would not occur within the State absent the availability of the Pine Tree Development Zone benefits and provides, at a minimum, a signed and notarized statement to this effect. The department shall determine whether the business has met the requirements of this paragraph; and [PL 2017, c. 440, §2 (AMD).]

B. It has received a letter of certification as a qualified business pursuant to section 5250-O. [PL 2017, c. 440, §2 (AMD).]

[PL 2017, c. 440, §2 (AMD).]

18. Qualified Pine Tree Development Zone employees. Except for employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities 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 derived from employment within the Pine Tree Development Zone, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

For employees in call centers in Aroostook and Washington counties, "qualified Pine Tree Development Zone employees" means new, full-time employees hired in this State by a qualified Pine Tree Development Zone business for work directly in one or more qualified business activities 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 derived from employment within the Pine Tree Development Zone, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to employees in call centers in Aroostook and Washington counties, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage as derived from the quarterly census of employment and wages. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification. "Qualified Pine Tree Development Zone employees" does not include employees shifted to a qualified business activity from a nonqualified activity of the qualified Pine Tree Development Zone business or an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.
[PL 2015, c. 368, §2 (AMD).]

18-A. Quarterly census of employment and wages. "Quarterly census of employment and wages" means the comprehensive tabulation of employment and wage information for workers produced by the quarterly census of employment and wages program, a cooperative program involving the federal Department of Labor, Bureau of Labor Statistics and the state employment security agencies.
[PL 2015, c. 368, §3 (NEW).]

19. State average weekly wage. "State average weekly wage" means the average weekly wage as published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §9 (AMD).]

20. State unemployment rate. "State unemployment rate" means the average unemployment rate published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application.
[PL 2009, c. 461, §10 (AMD).]

21. Targeted technology business. "Targeted technology business" means a business primarily involved in a targeted technology as defined in Title 5, section 15301.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

21-A. Tier 1 location. "Tier 1 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 10 years.
[PL 2009, c. 461, §11 (NEW).]

21-B. Tier 2 location. "Tier 2 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 5 years. After the 5 years, all Pine Tree Development Zone benefits expire, except for the expanded employment tax increment financing benefits under Title 36, chapter 917, which must be recalculated at that time to reflect the standard rates under that chapter.
[PL 2009, c. 461, §12 (NEW).]

22. Unit of local government. "Unit of local government" means a municipality, county, plantation, unorganized territory or Indian tribe.
[PL 2003, c. 688, Pt. D, §2 (NEW).]

23. Working waterfront. "Working waterfront" means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities. For purposes of this subsection, "parcel" includes an entire unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline.
[PL 2009, c. 21, §3 (NEW).]

24. Working waterfront industry. "Working waterfront industry" means an industry primarily involved in supporting commercial fishing, marine and boat building activities.
[PL 2009, c. 21, §4 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2005, c. 351, §§1-4 (AMD). PL 2005, c. 351, §26 (AFF). PL 2005, c. 637, §1 (AMD). PL 2005, c. 650, §1 (AMD). PL 2007, c. 466, Pt. A, §52 (AMD). PL 2007, c. 627, §§1, 2 (AMD). PL 2009, c. 21, §§1-4 (AMD). PL 2009, c. 461, §§2-12 (AMD). PL 2009, c. 627, §§2-4 (AMD). PL 2015, c. 368, §§1-3 (AMD). PL 2017, c. 440, §§1, 2 (AMD). PL 2019, c. 401, Pt. C, §§2, 3 (AMD).

§5250-J. Pine Tree Development Zones

1. Creation.

[PL 2009, c. 461, §13 (RP).]

2. Requirements for designation. The commissioner shall adopt rules establishing the minimum requirements for the designation of Pine Tree Development Zones pursuant to subsections 3-A and 3-B.
[PL 2009, c. 461, §14 (AMD).]

2-A. Application for designation as military redevelopment zone.

[PL 2009, c. 461, §15 (RP).]

3. Limitations. The designation of Pine Tree Development Zones is subject to the following limitations:

A. [PL 2009, c. 461, §16 (RP).]

B. [PL 2009, c. 461, §16 (RP).]

C. Pine Tree Development Zone benefits may not be used to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated businesses to a qualified business activity from a nonqualified activity elsewhere in the State; [PL 2005, c. 351, §5 (AMD); PL 2005, c. 351, §26 (AFF).]

D. Pine Tree Development Zone benefits may not be provided based upon any property, employees or positions transferred by the business or affiliated businesses to a qualified business activity from a nonqualified activity; and [PL 2009, c. 461, §16 (AMD).]

E. [PL 2005, c. 351, §5 (RP); PL 2005, c. 351, §26 (AFF).]

F. One or more qualified Pine Tree Development Zone business activities must be a permissible activity in the Pine Tree Development Zone. [PL 2009, c. 461, §16 (AMD).]

G. [PL 2009, c. 461, §16 (RP).]

H. [PL 2009, c. 461, §16 (RP).]
[PL 2009, c. 461, §16 (AMD).]

3-A. Pine Tree Development Zone classification; tier 1 locations. Beginning January 1, 2009, the department shall classify the following on an annual basis as tier 1 locations:

A. From January 1, 2009 to December 31, 2009, all units of local government; [PL 2009, c. 652, Pt. D, §1 (AMD); PL 2009, c. 652, Pt. D, §2 (AFF).]

B. Beginning January 1, 2010, a unit of local government that is contained in a county other than Cumberland County or York County, as well as a unit of local government that is contained in Cumberland County or York County with a municipal unemployment rate that is 15% higher than its labor market unemployment rate, based upon data published by the Department of Labor from the last completed calendar year; [PL 2009, c. 652, Pt. D, §1 (AMD); PL 2009, c. 652, Pt. D, §2 (AFF).]

C. A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008; [PL 2009, c. 652, Pt. D, §1 (NEW); PL 2009, c. 652, Pt. D, §2 (AFF).]

D. Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018; [PL 2015, c. 336, §1 (AMD).]

E. Washington County, the Downeast region and the City of Sanford, including 3 pilot projects to be established by the commissioner:

(1) A pilot project for the property of the former Cutler naval computer and telecommunications station and a pilot project for the City of Sanford, which may be excluded from the qualified business definitions established under section 5250-I, subsections 16 and 17 if a for-profit business is engaged in, or will engage in, tourism development including

recreational tourism, experiential tourism, hotel development and theme park resort facility development; and

(2) A pilot project that allows seasonal employees in seasonal industries based on natural resources to be considered qualified Pine Tree Development Zone employees for the purposes of section 5250-I, subsection 18; and [PL 2015, c. 336, §1 (AMD).]

F. Beginning January 1, 2016, the Town of Berwick in York County. [PL 2015, c. 336, §2 (NEW).]

[PL 2015, c. 336, §§1, 2 (AMD).]

3-B. Pine Tree Development Zone classification; tier 2 locations. Beginning January 1, 2010, the department shall classify the following units of local government on an annual basis as tier 2 locations:

A. All units of local government contained in Cumberland County or York County that are not classified as tier 1 locations pursuant to subsection 3-A. [PL 2009, c. 461, §18 (NEW).]

[PL 2009, c. 461, §18 (NEW).]

4. Application.

[PL 2009, c. 461, §19 (RP).]

4-A. Catastrophic occurrence; benefits. A qualified Pine Tree Development Zone business whose primary purpose is to support the State's working waterfront industry may apply for an adjustment of the base level of employment as described in this section, if it meets the following criteria:

A. It is located on a working waterfront in a Pine Tree Development Zone; [PL 2009, c. 21, §5 (NEW).]

B. It has sustained at least a 5% loss of employed workers due to a catastrophic occurrence; and [PL 2009, c. 21, §5 (NEW).]

C. It has appropriate infrastructure and zoning or other land use regulations in place. [PL 2009, c. 21, §5 (NEW).]

For the purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence. A qualified business must apply for an adjustment of the base level of employment within 16 months of the catastrophic occurrence. Applications pursuant to this subsection must be received by August 1, 2011.

[PL 2009, c. 21, §5 (NEW).]

4-B. Pine Tree Development Zone Reserve Fund established.

[PL 2011, c. 655, Pt. L, §2 (RP).]

4-C. Significant employment expansion; Pine Tree Development Zone benefits. A qualified Pine Tree Development Zone business that expands its employment at one of its locations in the State may apply for an adjustment of the base level of employment if it:

A. Has more than one location in the State; [PL 2009, c. 461, §21 (NEW).]

B. Creates 250 or more jobs at one location; [PL 2009, c. 461, §21 (NEW).]

C. Maintains its total employment in the State above 50% of its growth at the location of the employment expansion; and [PL 2009, c. 461, §21 (NEW).]

D. Has appropriate infrastructure and zoning or other land use regulations in place. [PL 2009, c. 461, §21 (NEW).]

For purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment must be calculated from the location where the business produces significant employment expansion of 250 jobs or more. The department shall determine on an annual basis if the business has produced significant employment expansion. If the department determines that the business does not meet the requirements of this section and its total employment in the State falls below 50% of its growth at this location of expansion, the business may not receive the adjustment pursuant to this section and the department shall calculate the base level of employment pursuant to section 5250-I, subsection 4.
[PL 2009, c. 461, §21 (NEW).]

5. Termination. A qualified Pine Tree Development Zone business located in a tier 1 location may not be certified under this subchapter after December 31, 2021, and a qualified Pine Tree Development Zone business located in a tier 2 location may not be certified under this subchapter after December 31, 2013. All Pine Tree Development Zone benefits provided under this subchapter are terminated on December 31, 2031.
[PL 2017, c. 440, §3 (AMD).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2005, c. 351, §5 (AMD). PL 2005, c. 351, §26 (AFF). PL 2005, c. 451, §1 (AMD). PL 2005, c. 637, §2 (AMD). PL 2005, c. 650, §§2-6 (AMD). PL 2005, c. 669, §1 (AMD). PL 2007, c. 466, Pt. A, §53 (AMD). PL 2009, c. 21, §5 (AMD). PL 2009, c. 461, §§13-22 (AMD). PL 2009, c. 652, Pt. D, §1 (AMD). PL 2009, c. 652, Pt. D, §2 (AFF). PL 2011, c. 655, Pt. L, §2 (AMD). PL 2015, c. 336, §§1, 2 (AMD). PL 2017, c. 440, §3 (AMD).

§5250-K. Procedure

(REPEALED)

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2005, c. 351, §6 (AMD). PL 2005, c. 351, §26 (AFF). PL 2009, c. 461, §23 (RP).

§5250-L. Selection criteria

(REPEALED)

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2009, c. 461, §24 (RP).

§5250-M. Program administration; rules

The commissioner shall administer this subchapter. The commissioner shall adopt rules pursuant to the Maine Administrative Procedure Act for implementation of Pine Tree Development Zones, including, but not limited to, rules for determining and certifying eligibility, selecting zones for designation and evaluating on a periodic basis the progress and success of each zone in achieving its goals. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 688, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW).

§5250-N. Unorganized territory

For the purposes of this subchapter, a county may act as a municipality for the unorganized territory within the county and may designate development districts within the unorganized territory. When a county acts under this section, the county commissioners act as the municipality and as the municipal legislative body, the State Tax Assessor acts as the municipal assessor and the unorganized territory

education and services fund receives the funds designated for the municipal general fund. [PL 2003, c. 688, Pt. D, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW).

§5250-O. Certification of qualified business

A business may apply to the commissioner for certification as a qualified Pine Tree Development Zone business. Upon review and determination by the commissioner that a business is a qualified Pine Tree Development Zone business, the commissioner shall issue a letter of certification to the business that includes a description of the qualified business activity for which the letter is being issued. Prior to issuing a letter of certification, the commissioner must find that the business activity will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider those factors the commissioner determines necessary to measure and evaluate the effect of the proposed business activity on existing businesses, including whether any adverse economic effect of the proposed business activity on existing businesses is outweighed by the contribution to the economic well-being of the State. The commissioner shall provide a copy of the letter of certification to the State Tax Assessor. [PL 2019, c. 343, Pt. IIII, §8 (AMD).]

The commissioner shall issue a certificate of qualification to a qualified Pine Tree Development Zone business after the commissioner has verified that the business has added at least one qualified Pine Tree Development Zone employee above its base level of employment. This verification may be obtained in such manner as the commissioner may prescribe. The commissioner shall provide a copy of the certificate of qualification to the State Tax Assessor. [PL 2017, c. 440, §4 (NEW).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2007, c. 263, §1 (AMD). PL 2017, c. 440, §4 (AMD). PL 2019, c. 343, Pt. IIII, §8 (AMD).

§5250-P. Annual reporting; evaluation

1. Annual reports. A qualified Pine Tree Development Zone business and the commissioner each shall report annually in accordance with this subsection.

A. On or before March 15th of each year, a qualified Pine Tree Development Zone business shall file a report with the commissioner for the immediately preceding calendar year, referred to in this subsection as "the report year," that contains the following information with such additional information and on forms as the commissioner may require:

(1) The total number of Maine employees and total salary and wages for those employees for the report year;

(2) The total number of qualified Pine Tree Development Zone employees and total salary and wages for those employees for the report year;

(3) The number of qualified Pine Tree Development Zone employees hired within the report year;

(4) The amount of investments made during the report year at the qualified Pine Tree Development Zone business location or directly related to the qualified business activity; and

(5) In aggregate, the estimated or total value of Pine Tree Development Zone benefits received or claimed in the report year. [PL 2019, c. 659, Pt. E, §3 (AMD).]

B. [PL 2019, c. 659, Pt. E, §3 (RP).]

C. On or before June 1st annually, beginning in 2019, the commissioner shall report to the joint standing committees of the Legislature having jurisdiction over taxation and economic

development matters information on qualified Pine Tree Development Zone businesses, including, but not limited to:

(1) The names of qualified Pine Tree Development Zone businesses for the report year;

(2) The estimated or total aggregate amount of Pine Tree Development Zone benefits received by qualified Pine Tree Development Zone businesses in the report year; and

(3) Aggregate information for each of the most recent 3 report years on:

(a) Employment levels for all Maine employees and for qualified Pine Tree Development Zone employees and associated salary and wages for both groups of employees;

(b) Average annual salary and wages and access to health insurance and retirement benefits for all Maine employees and for qualified Pine Tree Development Zone employees; and

(c) Amount of investment associated with the qualified Pine Tree Development Zone business locations or directly related to the qualified business activities. [PL 2017, c. 440, §5 (NEW).]

[PL 2019, c. 659, Pt. E, §3 (AMD).]

2. Evaluation; specific public policy objective; performance measures. The Pine Tree Development Zone program established by this subchapter is subject to ongoing legislative review in accordance with Title 3, chapter 37. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the Legislature's government oversight committee and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the Pine Tree Development Zone program established by this subchapter is to create and retain quality jobs in this State by reducing the tax burden experienced by businesses and thereby making this State's business tax burden more comparable to other states, encouraging location and expansion of businesses in this State and improving the competitiveness of this State's businesses; and [PL 2017, c. 440, §5 (NEW).]

B. Performance measures, including:

(1) Change in employment levels of qualified Pine Tree Development Zone employees;

(2) Amount of investment directly related to a qualified business activity;

(3) Comparison of business tax burden in this State to other states;

(4) Comparison of other cost burdens in this State to other states;

(5) Comparison of the amount of public incentives received from the Pine Tree Development Zone program to the amount of public incentives received from other incentive programs in the State;

(6) Measures of industry competitiveness for businesses receiving Pine Tree Development Zone benefits;

(7) Measures of fiscal impact and overall economic impact to the State; and

(8) Other measures as may be relevant to the evaluation of program outcomes. [PL 2017, c. 440, §5 (NEW).]

The Office of Program Evaluation and Government Accountability shall provide a report of its evaluation of the Pine Tree Development Zone program established by this subchapter in accordance with Title 3, section 999 and shall also provide this report to the joint standing committee of the Legislature having jurisdiction over economic development matters, which may report out a bill to the Legislature in response to the report's recommendations.

[PL 2019, c. 305, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 688, §D2 (NEW). PL 2017, c. 440, §5 (RPR). PL 2019, c. 305, §1 (AMD). PL 2019, c. 659, Pt. E, §3 (AMD).

SUBCHAPTER 5

PINE TREE RECREATION ZONE

§5250-Q. Pine Tree Recreation Zone

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

A. "Qualified project" means a business project that meets the criteria set forth in subsection 4 conducted by a qualified industry. [PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

B. "Qualified industry" means a for-profit corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust or any other entity, inside or outside the State, that is engaged in or will engage in a qualified project. [PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

[PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

2. Establishment. The Pine Tree Recreation Zone is established to expand recreational opportunities and encourage tourism and economic development in areas adjacent to and located within the State's natural resources in the central and northern regions of the State.

[PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

3. Designation of zone. The Pine Tree Recreation Zone is that area of the State that is north and east of the Androscoggin River.

[PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

4. Project eligibility. A business project is eligible to qualify for Pine Tree Recreation Zone benefits if the project:

A. Is located within the Pine Tree Recreation Zone and is in a labor market area with a population density of less than 30 people per square mile according to the last Federal Decennial Census; and [PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

B. Derives at least 50% of its business from sustainable recreational or agricultural tourism activities that involve the use of available natural resources and provides at least one of the following services:

(1) Accommodations;

(2) Guiding or instructional services; and

(3) The sale or rental of equipment for use in canoeing, kayaking, hunting, fishing, sailing, whitewater rafting, hiking, wildlife photography, snowmobiling, dog sledding, snowshoeing, downhill or cross-country skiing, camping activities or other similar nature-based tourism activities. [PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

[PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

5. Administration; rules. The Commissioner of Economic and Community Development shall administer this subchapter and shall adopt rules for the implementation of this subchapter. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner is authorized to adopt rules setting forth the process by which qualified projects

may apply for funding from grants and loans, including loans administered by the Finance Authority of Maine through its economic recovery loan program.
[PL 2005, c. 555, §1 (NEW); PL 2005, c. 555, §3 (AFF).]

SECTION HISTORY

PL 2005, c. 555, §1 (NEW). PL 2005, c. 555, §3 (AFF).

SUBCHAPTER 6

PINE TREE DEVELOPMENT ZONE EXCEPTIONS

§5250-R. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

1. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

2. Department. "Department" means the Department of Economic and Community Development.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

3. Manufacturing. "Manufacturing" has the same meaning as in section 5250-I, subsection 11.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

4. Pine Tree Development Zone. "Pine Tree Development Zone" has the same meaning as in section 5250-I, subsection 13.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

5. Pine Tree Development Zone benefits. "Pine Tree Development Zone benefits" has the same meaning as in section 5250-I, subsection 14.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. QQQQ, §1 (NEW).

§5250-S. Exceptions for manufacturing businesses

1. Expansion by manufacturing business. The commissioner may certify a business that does not otherwise qualify as a qualified Pine Tree Development Zone business pursuant to section 5250-I, subsection 17 or that does not locate in a Pine Tree Development Zone as qualified to receive Pine Tree Development Zone benefits if the business:

A. Is a for-profit business that has been engaged in the business of manufacturing in the State for at least 3 years; [PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

B. Makes a written commitment to expand its business at one of its current locations in the State by adding at the location of expansion a minimum of 4 net new, full-time employees for whom a retirement program subject to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461, as amended, and group health coverage are provided and whose income derived from employment at the business's location of expansion, calculated on a calendar-year basis, is greater than the most recent annual per capita personal income in the county in which the employee is employed; and [PL 2007, c. 468, §1 (AMD).]

C. Makes a written commitment to invest a minimum of $225,000 in its expansion at one of its current locations. [PL 2007, c. 468, §2 (AMD).]

[PL 2007, c. 468, §§1, 2 (AMD).]

2. Application for tax benefits. A manufacturing business may apply to the commissioner for certification to receive Pine Tree Development Zone benefits pursuant to subsection 1. An application must include, but is not limited to, a detailed narrative description of the manufacturing business's plans for expansion and goals for achieving the requirements listed under subsection 1 and a description of resources to be committed at the location of expansion, including a related timeline for achieving these goals. Upon review and determination by the commissioner that the business satisfies the criteria under subsection 1, the commissioner shall issue a certificate to the manufacturing business for qualification for Pine Tree Development Zone benefits.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

3. Sunset. Applications for Pine Tree Development Zone benefits under this subchapter must be received by the commissioner by December 1, 2009.
[PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. QQQQ, §1 (NEW). PL 2007, c. 468, §§1, 2 (AMD).

§5250-T. Rules

The department shall adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 240, Pt. QQQQ, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. QQQQ, §1 (NEW).

CHAPTER 207

MUNICIPAL DEVELOPMENT DISTRICTS

§5251. Findings and declaration of necessity

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 606, §A1 (AMD). PL 1991, c. 606, §A4 (AFF). PL 2001, c. 669, §2 (RP).

§5252. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 431, §§1-5 (AMD). PL 1991, c. 606, §A2 (AMD). PL 1991, c. 606, §A4 (AFF). PL 1991, c. 856, §§1-3 (AMD). PL 1993, c. 429, §1 (AMD). PL 1995, c. 368, §J3 (AMD). PL 1995, c. 395, §B3 (AMD). PL 1995, c. 669, §1 (AMD). PL 1997, c. 220, §§1,2 (AMD). PL 1999, c. 272, §§4,5 (AMD). PL 1999, c. 650, §§1-7 (AMD). PL 2001, c. 669, §2 (RP).

§5253. Development districts; development programs and ordinances

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A47,C8,C10 (AMD). PL 1989, c. 508, §§4,5 (AMD). PL 1991, c. 431, §6 (AMD). PL 1995, c. 669, §2 (AMD). PL 1999, c. 650, §8 (AMD). PL 2001, c. 669, §2 (RP).

§5254. Tax increment financing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A48,C8,C10 (AMD). PL 1991, c. 431, §§7,8 (AMD). PL 1991, c. 856, §4 (AMD). PL 1995, c. 669, §3 (AMD). PL 1997, c. 220, §3 (AMD). PL 1999, c. 650, §§9,10 (AMD). PL 2001, c. 669, §2 (RP).

§5254-A. State tax increment financing

(REPEALED)

SECTION HISTORY

PL 1991, c. 606, §A3 (NEW). PL 1991, c. 606, §A4 (AFF). PL 1991, c. 856, §5 (AMD). PL 1993, c. 429, §§2-5 (AMD). PL 1993, c. 741, §3 (AMD). PL 1995, c. 669, §4 (AMD). PL 1997, c. 220, §§4,5 (AMD). PL 1999, c. 559, §§1-3 (AMD). PL 2001, c. 669, §2 (RP).

§5255. Assessments

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 431, §9 (AMD). PL 1993, c. 556, §1 (AMD). PL 2001, c. 669, §2 (RP).

§5256. Grants

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 669, §2 (RP).

§5257. Financing

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 508, §6 (AMD). PL 1991, c. 431, §10 (AMD). PL 2001, c. 669, §2 (RP).

§5258. Tax exemption

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 669, §2 (RP).

§5259. Administration

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 669, §2 (RP).

§5260. Advisory board

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 669, §2 (RP).

§5261. Unorganized territory

(REPEALED)

SECTION HISTORY

PL 1991, c. 856, §6 (NEW). PL 2001, c. 669, §2 (RP).

CHAPTER 207-A

PULP AND PAPER MANUFACTURING SECTOR STABILIZATION ASSISTANCE

§5262. Declaration of necessity

1. Legislative finding. The Legislature finds that there is a need to provide assistance in the financing of substantial capital investments in environmental improvement projects that will be required by state and federal regulation of the State's pulp and paper industry. These investments are necessary to improve the quality of the State's environment and to ensure a competitive and sustainable pulp and paper industry.
[PL 1993, c. 671, §2 (NEW).]

2. Declaration of public purpose. It is declared that the actions required to assist the implementation of these development programs are a public purpose and that the execution and financing of these programs are a public purpose.
[PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5263. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 671, §2 (NEW).]

1. Captured assessed value. "Captured assessed value" means the valuation amount by which the current assessed value of a pulp and paper tax increment financing district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no captured assessed value.
[PL 1993, c. 671, §2 (NEW).]

2. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.
[PL 1993, c. 671, §2 (NEW).]

3. Designee. "Designee" means a business engaged in the pulp and paper industry that is selected by a municipality as a partner in a development district.
[PL 1993, c. 671, §2 (NEW).]

4. Development district. "Development district" means a specified area within the corporate limits of a municipality that has been designated as provided under section 5264 and that is to be developed by the municipality or its designee under a development program.
[PL 1993, c. 671, §2 (NEW).]

5. Development program. "Development program" means a statement of means and objectives designed to improve and modernize the manufacturing facilities and related structures and equipment within the development district. The statement must include:

A. A financial plan; [PL 1993, c. 671, §2 (NEW).]

B. A complete list of public and private facilities to be constructed; [PL 1993, c. 671, §2 (NEW).]

C. The uses of private property within the development district; [PL 1993, c. 671, §2 (NEW).]

D. The environmental controls to be applied; [PL 1993, c. 671, §2 (NEW).]

E. An estimate of the number of jobs to be created, stabilized, retained or eliminated; [PL 1993, c. 671, §2 (NEW).]

F. The proposed operation of the development district after the planned capital improvements are completed; and [PL 1993, c. 671, §2 (NEW).]

G. The duration of the program, which may not exceed 20 years from the date of designation of the development district. [PL 1993, c. 671, §2 (NEW).]
[PL 1993, c. 671, §2 (NEW).]

6. Environmental improvement project. "Environmental improvement project" means a capital investment necessary to comply with the requirements of federal regulation finally adopted by the United States Environmental Protection Agency pursuant to its rulemaking initiated on December 17, 1993; Federal Register, Vol. 58, No. 241, pages 66078 to 66216; or otherwise required under the United States Clean Air Act or the United States Clean Water Act or under any state law or regulation enacted or adopted to implement the requirements of these federal laws and regulations.
[PL 1993, c. 671, §2 (NEW).]

7. Financial plan. "Financial plan" means a statement of the costs and sources of revenue required to accomplish the development program. The statement must include:

A. Cost estimates for the development program; [PL 1993, c. 671, §2 (NEW).]

B. The amount of any indebtedness to be incurred; [PL 1993, c. 671, §2 (NEW).]

C. Sources of anticipated revenues; [PL 1993, c. 671, §2 (NEW).]

D. Estimates of captured assessed values of the development district; [PL 1993, c. 671, §2 (NEW).]

E. The portion of the captured assessed values to be applied to the development program and resulting tax increments in each year of the development program; and [PL 1993, c. 671, §2 (NEW).]

F. A statement of the estimated impact of tax increment financing on all taxing jurisdictions in which the development district is located. [PL 1993, c. 671, §2 (NEW).]
[PL 1993, c. 671, §2 (NEW).]

8. Original assessed value. "Original assessed value" means the assessed value of the development district as of March 31st of the preceding tax year.
[PL 1993, c. 671, §2 (NEW).]

9. Project costs. "Project costs" means expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the municipality or, for environmental improvement projects, by its designee under the development program after July 1, 1994 that are listed in a project plan as costs of improvements, including public works, acquisition, construction or rehabilitation of land or improvements for sale or use by industrial users, within a development district plus costs incidental to those improvements, reduced by income, special assessments or other revenues, other than tax increments, received or reasonably expected to be received by the municipality in connection with the implementation of this plan.

A. The term "project costs" does not include the cost of buildings, or portions of buildings, used predominantly for the general conduct of government. These buildings include, but are not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails, police stations and other State Government and local government office buildings. [PL 1993, c. 671, §2 (NEW).]

B. The term "project costs" includes, but is not limited to:

(1) Capital costs, including, but not limited to:

(a) The actual costs of the construction of public works or improvements, new buildings, structures and fixtures;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) The acquisition of equipment; and

(d) The clearing and grading of land;

(2) Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs, meaning a deficit incurred resulting from the sale or lease as lessor by the municipality of real or personal property within a development district for consideration that is less than its cost to the municipality;

(4) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice and services;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;

(6) Relocation costs, including, but not limited to, those relocation payments made following condemnation;

(7) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans;

(8) Payments made, in the discretion of the local legislative body, that are found to be necessary or convenient to the creation of development districts or the implementation of project plans;

(9) That portion of the costs related to the construction or alteration of sewage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines or water lines, the rebuilding or expansion of which is required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district;

(10) Training costs, including, but not limited to, those costs associated with providing skills development and training for employees of businesses within the development district. These costs may not exceed 20% of the total project costs and must be designated as training funds within 3 years of the designation of the development district;

(11) Improvements, meaning costs associated with developing new employment opportunities; establishing and maintaining administrative and management support; and such other services as are necessary or appropriate to carry out the development program; and

(12) Notwithstanding subparagraphs (1) to (11), the cost of acquisition, design, engineering, construction, building, alteration, enlargement, reconstruction, renovation, improvement, equipping, remodeling and installation of an environmental improvement project including the cost of all labor, materials, building systems, machinery and equipment; the cost of all lands, structures, real or personal property, rights, easements and franchises acquired; the cost of all utility extensions, access roads, site development, financing charges, premiums for insurance, interest prior to and during construction and for 6 months after construction; and the cost of working capital for the environmental improvement project, whether or not that environmental improvement project is owned by private parties engaged in the pulp and paper industry. [PL 1993, c. 671, §2 (NEW).]

[PL 1993, c. 671, §2 (NEW).]

10. Pulp and paper industry. "Pulp and paper industry" means any industrial activity currently described by the United States Office of Management and Budget under Standard Industrial Classification 261, 262 or 263 or those activities classified under classification 2679 that press or mold wood pulp or recycled fiber to make products, including, without limitation, any activity regarding the treatment, recycling or disposal of wastewater, air emissions, solid residues or other related manufacturing by-products. This term does not include activity relating to, associated with or otherwise involving the growth, harvesting, transportation or preparation of timber, pulpwood or other wood products prior to the manufacture of pulp, paper or paperboard.

[PL 1995, c. 462, Pt. A, §53 (AMD).]

11. Pulp and paper tax increment financing district. "Pulp and paper tax increment financing district" means a type of development district, or portion of a district, that uses tax increment financing under section 5265. For the purposes of this chapter, "tax increment financing district" means a pulp and paper tax increment financing district.

[PL 1993, c. 671, §2 (NEW).]

12. Tax increment. "Tax increment" means that portion of all real and personal property taxes assessed by a municipality in excess of any state, county or special district tax upon the captured assessed value of property in the development district.

[PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW). PL 1995, c. 462, §A53 (AMD).

§5264. Development districts; development programs and ordinances

1. Districts. The municipal legislative body may designate development districts within the boundaries of the municipality. Before designating a development district, the municipal legislative body or the municipal legislative body's designee shall hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality. New development districts may not be established after January 1, 1998. The commissioner may establish, by rule, procedures governing the administration of this section.

A. At least 75% by area of the real property within a development district must be owned by a company engaged in the pulp and paper industry. [PL 1993, c. 671, §2 (NEW).]

B. Subsequent changes in the boundaries of a development district must be adopted in the same manner as the original delegation under this subsection. [PL 1993, c. 671, §2 (NEW).]

C. The development program must be completed within 5 years of the designation of the tax increment financing district by the commissioner. [PL 1993, c. 671, §2 (NEW).]

D. Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements. In addition, the commissioner must have received notification from the Commissioner of Environmental Protection that those elements of a development program undertaken by parties other than the municipality are part of a certified environmental improvement project or projects. A designation under this subsection is effective upon approval by the municipal legislative body and, for tax increment financing districts, upon approval by the commissioner. If the municipality has a charter, the designation of a development district may not be in conflict with the provisions of the municipal charter. [PL 1993, c. 671, §2 (NEW).]

[PL 1993, c. 671, §2 (NEW).]

2. Program. The legislative body of a municipality shall adopt a development program for each development district. The program must be adopted at the same time as the district as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice, hearing and consultation requirements of subsection 1. Subsequent changes in the program must be adopted in the same manner as the original adoption under this subsection.

[PL 1993, c. 671, §2 (NEW).]

3. Certification of environmental improvement projects. Any pulp and paper industry applicant seeking to participate in a tax increment financing district designated under this chapter or participation in the pulp and paper environmental investment program shall submit to the Commissioner of Environmental Protection an application including a complete description of all proposed project elements and associated, estimated direct costs that comprise its environmental improvement project and any other relevant information as the Commissioner of Environmental Protection may require.

A. The Commissioner of Environmental Protection shall issue a certificate of approval for all or a portion of a proposed project if, in the commissioner's judgment, the proposed project or portions of the project satisfy the definition of an environmental improvement project. [PL 1993, c. 671, §2 (NEW).]

B. For each project, the commissioner shall establish a list of certified elements of the project that are necessary to implement the certified project or portions of the project. This list may include any or all of those elements described under section 5263, subsection 10, paragraph B, subparagraph (12). [PL 1993, c. 671, §2 (NEW).]

C. The commissioner shall issue a decision within 90 days of application and may contract for outside review of the application under Title 38, section 344-A. [PL 1993, c. 671, §2 (NEW).]

[PL 1993, c. 671, §2 (NEW).]

4. Powers. Within development districts, and consistent with the development program, the municipality or the municipality's designee may acquire, construct, reconstruct, improve, preserve, alter, extend, operate, maintain or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's legislative body may adopt ordinances regulating traffic in and access to facilities constructed within the development district. The municipality may install public improvements.

[PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5265. Tax increment financing

1. Captured assessed value. The municipality may retain all or part of the tax increment of a tax increment financing district for the purpose of financing the development program. The amount of tax increment to be retained is determined by designating the amount of captured assessed value to be retained. When a development program for a tax increment financing district is adopted, the municipal legislative body shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor shall certify the amount of the captured assessed value to the municipality each year.
[PL 1993, c. 671, §2 (NEW).]

2. Original assessed value. On or after formation of a tax increment financing district, the assessor of the municipality in which it is located shall, on request of the municipal legislative body, certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year, after the formation of a tax increment financing district, the municipal assessor shall certify the amount by which the assessed value has increased or decreased from the original value. The amount of any increase in the captured assessed value must be reduced by the amount of any reduction in the most current total valuation of all properties that are within the municipality but outside the development district belonging to property owners with taxable property located within the development district as compared to the assessed valuation of the same properties on March 31st of the tax year immediately preceding the designation of the development district.
[PL 1993, c. 671, §2 (NEW).]

3. Development program fund; tax increment revenues. If a municipality has elected to retain all or a percentage of the retained captured assessed value under subsection 1, the municipality:

A. Shall establish a development program fund that consists of the following:

(1) A development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on notes, bonds or other evidences of indebtedness that were issued by the municipality or its designee to fund or refund the cost of the development program fund; and

(2) A project cost account that is pledged to and charged with the payment of project costs as outlined in the financial plan and are paid in a manner other than as described in subparagraph (1); [PL 1993, c. 671, §2 (NEW).]

B. Shall annually set aside all tax increment revenues on retained captured assessed values and deposit all such revenues to the appropriate development program fund account in the following order of priority:

(1) To the development sinking fund account, an amount sufficient together with estimated future revenues to be deposited to the account and earnings on the amount to satisfy all annual debt service on bonds and notes issued under section 5267 and the financial plan; and

(2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account; [PL 1993, c. 671, §2 (NEW).]

C. May make transfers between development program fund accounts as required, as long as the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and [PL 1993, c. 671, §2 (NEW).]

D. Shall annually return to the municipal general fund any tax increment revenues in excess of those estimated to be required to satisfy the obligations of the development sinking fund account. The corresponding amount of local valuation may not be included as part of the retained captured assessed value as specified by the municipality. [PL 1993, c. 671, §2 (NEW).]

[PL 1993, c. 671, §2 (NEW).]

4. Limitations. The following limitations apply.

A. Nothing in this section allows or sanctions unequal apportionment or assessment of the taxes paid on real property in the State. Taxes on real property within the tax increment financing district must be apportioned equally with property taxes on real property elsewhere in the municipality. [PL 1993, c. 671, §2 (NEW).]

B. The municipality shall expend the tax increments received for a development program only in accordance with the financing plan. These revenues may not be used to circumvent existing tax laws. [PL 1993, c. 671, §2 (NEW).]

[PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5266. Grants

A municipality may receive grants or gifts for the purposes of this chapter. The tax increment within a development district may be used as the local match for certain grant programs. [PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5267. Financing

The legislative body of a municipality may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 20 years from the date of issue, or may enter into other types of financing transactions as it determines appropriate to finance all project costs needed to carry out the development program within the development district. The municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5265 or received by the municipality are pledged for the payment of the activities described in the development program and must be used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's net debt. Nothing in this section restricts the ability of the municipality to raise revenue for the payment of project costs in a manner otherwise authorized by law. [PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5268. Administration

The legislative body of a municipality may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter. [PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5269. Advisory board

The legislative body of a municipality may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district that they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the development district after the program has been completed. [PL 1993, c. 671, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

§5270. Pulp and paper environmental investment program

(REPEALED)

SECTION HISTORY

PL 1993, c. 671, §2 (NEW).

CHAPTER 208

DEFENSE FINANCE AND ACCOUNTING SERVICE FINANCIAL ASSISTANCE ACT

§5271. Definitions

(REPEALED)

SECTION HISTORY

PL 1991, c. 886, §1 (NEW). PL 1991, c. 886, §2 (AFF). PL 1993, c. 4, §1 (AMD).

§5272. DFAS financial assistance program

(REPEALED)

SECTION HISTORY

PL 1991, c. 886, §1 (NEW). PL 1991, c. 886, §2 (AFF). PL 1993, c. 4, §§2-6 (AMD).

§5273. DFAS development program

(REPEALED)

SECTION HISTORY

PL 1991, c. 886, §1 (NEW). PL 1991, c. 886, §2 (AFF). PL 1993, c. 4, §§7-11 (AMD).

§5274. DFAS development financing

(REPEALED)

SECTION HISTORY

PL 1991, c. 886, §1 (NEW). PL 1991, c. 886, §2 (AFF). RR 1993, c. 1, §§78,79 (COR).

§5275. Capital reserve fund

(REPEALED)

SECTION HISTORY

PL 1991, c. 886, §1 (NEW). PL 1991, c. 886, §2 (AFF).

CHAPTER 208-A

MUNICIPAL INCENTIVE DEVELOPMENT ZONES

§5281. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 696, §3 (NEW).]

1. Commercial and industrial property. "Commercial and industrial property" means real and personal property used for or in connection with an industrial, commercial or other business enterprise and includes, but is not limited to, real or personal property used, useful or intended for use in or as warehouses or other wholesale distribution facilities, factories or other manufacturing facilities, commercial business facilities, retail business facilities, service business facilities, office buildings, hotels and motels and parking garages.
[PL 1993, c. 696, §3 (NEW).]

2. Original assessed value. "Original assessed value" means the assessed value of all commercial and industrial property located within the municipal incentive development zone as of the date of approval of the municipal incentive development zone by the Commissioner of Economic and Community Development.
[PL 1993, c. 696, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 696, §3 (NEW).

§5282. Municipal incentive development zones

Municipal incentive development zones may be established to assist municipalities in encouraging private investment in industrial and commercial projects through the provision of public infrastructure necessary for improvements. Improvements and investments must provide new employment opportunities, improve and broaden the tax base and improve the general economy of the State. [PL 1993, c. 696, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 696, §3 (NEW).

§5283. Municipal incentive development zones; procedures

1. Procedures for establishment of zones. The municipal legislative body shall comply with the following procedures in establishing municipal incentive development zones.

A. The municipal legislative body may establish municipal incentive development zones within the boundaries of the municipality by majority vote at a duly called meeting:

(1) To establish the zone;

(2) To adopt a description of the physical boundaries of the zone;

(3) To adopt an infrastructure improvement plan for the zone. The infrastructure improvement plan must describe the public infrastructure improvements to be constructed by the municipality in the municipal incentive development zone, including the nature of the improvements, the time, place and manner of installation of improvements, the plans for operation of improvements and a description of how the proposed improvements are expected to encourage private sector capital investment in commercial and industrial property in the zone and otherwise benefit the public; and

(4) To authorize the infrastructure improvements described in the plan. Evidence of authorization must be included in the plan. [PL 1993, c. 696, §3 (NEW).]

B. Before establishing a municipal incentive development zone, the municipal legislative body or its designee shall do the following:

(1) Hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation in the municipality; and

(2) Submit to the Commissioner of Economic and Community Development for review and approval the municipal incentive development zone established by the municipal legislative body and the applicable infrastructure improvement plan. [PL 1993, c. 696, §3 (NEW).]

C. Prior to final approval of a municipal incentive development zone, the Commissioner of Economic and Community Development must certify that the public improvements proposed by the municipality are likely to result in private sector capital investment in commercial and industrial property within the zone. The Commissioner of Economic and Community Development may develop a nonexclusive list of qualifying improvements by rule. [PL 1993, c. 696, §3 (NEW).]

[PL 1993, c. 696, §3 (NEW).]

2. Effective date. The establishment of a municipal incentive development zone is effective upon approval by the municipal legislative body and certification by the Commissioner of Economic and Community Development as provided in this section.

[PL 1993, c. 696, §3 (NEW).]

3. Standards for zones. Municipal incentive development zones must meet the following requirements:

A. The total area of all municipal incentive development zones may not exceed 10% of the total acreage of the municipality; [PL 1993, c. 696, §3 (NEW).]

B. The aggregate value of equalized taxable property, as defined in Title 36, sections 208 and 305, of a municipal incentive development zone determined as of the date the establishment of the zone becomes effective, plus all existing municipal incentive development zones determined as of the date of establishment of each such zone became effective, may not exceed 10% of the total value of equalized taxable property within the municipality; [PL 1993, c. 696, §3 (NEW).]

C. The area within any municipal incentive development zone must be directly benefitted by the public infrastructure improvements proposed to be made by the municipality according to the infrastructure improvement plan; and [PL 1993, c. 696, §3 (NEW).]

D. The improvements proposed to be made by the municipality in the municipal incentive development zone and described in the infrastructure improvement plan must primarily benefit or encourage private investment in commercial and industrial property. [PL 1993, c. 696, §3 (NEW).]

[PL 1993, c. 696, §3 (NEW).]

4. Amendment of zones and development plans. The boundaries of a municipal incentive development zone and the infrastructure improvement plan may be altered or amended by the municipality only in accordance with the requirements for adoption of municipal incentive development zones in this section.

[PL 1993, c. 696, §3 (NEW).]

5. Duration of zones. Municipal incentive development zones have a maximum duration of 10 years.

[PL 1993, c. 696, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 696, §3 (NEW).

§5284. Tax shifts

The municipal assessor shall certify, as of the date of approval of the municipal incentive development zone, the assessed value of all commercial and industrial property located within the zone as of the date of approval of the zone by the Commissioner of Economic and Community Development. During the term of the zone, in making the annual determination of the equalized just value of the industrial and commercial property located within the municipal incentive development zone pursuant to Title 36, sections 208 and 305, there must be excluded from value the increase in equalized just value of all industrial and commercial property located within the zone over the original assessed value, except that the amount excluded under this section may not exceed the amount invested by a municipality in infrastructure improvements under an infrastructure improvement plan adopted pursuant to section 5283. The amount invested by a municipality in infrastructure improvements under an infrastructure improvement plan adopted pursuant to section 5283 must be determined as of the date the investment is completed. [PL 1993, c. 696, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 696, §3 (NEW).

§5285. Agreements between municipalities

Municipalities may jointly create municipal incentive development zones that encompass property located within the boundaries of the municipalities. The municipalities may enter into agreements with each other allocating the economic benefit resulting from the creation of the zones. [PL 1993, c. 696, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 696, §3 (NEW).

§5286. Declaration of public purpose

The actions required to assist the establishment of municipal incentive development zones, including implementation of the applicable infrastructure improvement plans, and the execution and financing of these plans, are a public purpose. [PL 1993, c. 696, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 696, §3 (NEW).

CHAPTER 209

RELOCATION OF UTILITY FACILITIES

§5301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Administering authority. "Administering authority" means an urban renewal authority, municipal officers or any other persons or organizations empowered by the provisions of chapters 203, 205 and 206 to implement an urban renewal plan, community development program or municipal development district plan.
[PL 2001, c. 669, §3 (AMD).]

2. Development plan. "Development plan" means an urban renewal plan, community development program or municipal development district plan as defined and described in chapters 203, 205 and 206.
[PL 2001, c. 669, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 669, §3 (AMD).

§5302. Payment of costs of relocating utility facilities underground in an urban renewal area

Any public utility, as defined in Title 35-A, section 102, subsection 13, that is required to move or relocate its facilities from or in any traveled way because of the requirements of a development plan which is approved after February 23, 1978, under the procedures established for the approval of development plans, may not be required to install the relocated or any new facilities underground at its own expense, but shall be reimbursed from federal funds provided to implement these plans for the costs of placing utility facilities underground. The relocation costs subject to reimbursement may not exceed the cost of underground installation less the cost of providing the same service with the same capacity through a new overhead system. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Determination of cost. In determining the amount of reimbursement, in the first instance, the public utility shall itemize for the administering authority of the development plan, the components of the utility's relocation costs and the cost of providing the same service with the same capacity through a new overhead system. If there is disagreement with respect to the reimbursement, the disagreement shall be submitted to the Public Utilities Commission which, after notice and hearings, shall determine the amount of the reimbursement.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Federal reimbursement; lack of federal funds. The difference in costs, if any, between the underground and new overhead construction, qualifies for reimbursement to the administering authority from the Federal Government to the fullest extent allowed by law. If federal money is not available to refund a public utility for relocating its facilities as described in this section, the relocation costs shall be considered ordinary costs of business for rate-making purposes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 211

FEDERAL AID FOR URBAN RENEWAL PROJECTS

§5351. Purpose

The purpose of this chapter is to assist municipalities and their urban renewal authorities to obtain the additional federal capital grants for urban renewal projects which are available under the United States Housing Act of 1949, Public Law 81-171, Title I, as amended. The additional federal capital grants, as local grants-in-aid for federally assisted urban renewal projects being or to be undertaken by municipalities or their urban renewal authorities, establish the aggregate amount of expenditures made by an educational institution of higher learning or hospital directly or through a private redevelopment corporation, for land, buildings and structures located in areas adjacent to or in the immediate vicinity of federally assisted urban renewal projects if the land, buildings or structures are to be redeveloped or rehabilitated by the institution for educational or hospital uses in accordance with a development plan

approved under state or local law after public hearing and found acceptable by the Housing and Home Finance Administrator after considering the standards specified in the United States Housing Act of 1949, Public Law 81-171, Title I, Section 110(b), as amended. The additional federal capital grants are available in an amount equal to 2 or 3 times the aggregate amount of such expenditures. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5352. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Development plan. "Development plan" means a plan proposed by an educational institution of higher learning or a private redevelopment corporation for the redevelopment and renewal of a project area. This plan must conform to:

A. The municipality's comprehensive plan; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The requirements of chapter 203 with respect to the content of redevelopment or renewal plans. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Educational institution of higher learning. "Educational institution of higher learning" means an educational institution, no part of the net earnings of which inures to the benefit of any private shareholder or individual, which provides an educational program for which it awards a baccalaureate or more advanced degree, or provides for not less than a 2-year program which is acceptable for full credit towards such a degree. The institution must be accredited by a national accrediting agency or association or, if not so accredited, its credits must be accepted, on transfer, by at least 3 accredited educational institutions for credit on the same basis as if transferred from an educational institution that is accredited.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Hospital. "Hospital" means any public or private hospital licensed by the State, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Hospital uses. "Hospital uses" means uses related to the functions of a hospital in providing care and treatment of the ill or injured, including the housing, feeding and care of resident interns, physicians and nurses.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Municipality. "Municipality" means any municipality which is authorized under chapter 203, directly or through its urban renewal authority, to undertake and carry out redevelopment or renewal projects.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Private redevelopment corporation. "Private redevelopment corporation" means any corporation which is wholly owned or controlled by one or more educational institutions of higher learning or a corporation which operates on behalf of an educational institution on a nonprofit basis. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Project area. "Project area" means a slum area or a blighted, deteriorated or deteriorating area. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5353. Preparation and approval of development plans

The legislative body of any municipality may approve, after a public hearing, a development plan proposed by any educational institution of higher learning or hospital located in the municipality, or by a private redevelopment corporation, for the redevelopment and renewal of a project area, adjacent to or in the immediate vicinity of the location of principal buildings of the institution or hospital, or a major branch of the institution or hospital, where teaching or research is done or where students or faculty live, and the area of an urban renewal project, assisted under the United States Housing Act of 1949, Public Law 81-171, Title I, as amended, which is being undertaken by the municipality or its urban renewal authority. Any state educational institution of higher learning, hospital or private redevelopment corporation may prepare these development plans. Any city may authorize any educational institution of higher learning or hospital established and maintained by the city to prepare development plans. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5354. Public hearing

Before approving any development plan under section 5353, the municipal legislative body or the municipality's urban renewal authority shall hold a public hearing on the development plan. This public hearing must be held not less than 7 nor more than 14 days after notice of the time, place and purpose of the hearing has been published in a newspaper having general circulation in the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5355. Cooperation in carrying out approved development plan

If the municipal legislative body approves a development plan for a project area, the municipality and its urban renewal authority may cooperate with the educational institution of higher learning, hospital or private redevelopment corporation in carrying out the approved development plan and, for that purpose, may contract with the educational institution, hospital or private redevelopment corporation for the exercise of any of the powers of the municipality and its urban renewal authority.

Any municipality or its urban renewal authority, any state educational institution of higher learning and, when authorized by a city, any educational institution of higher learning or hospital established and maintained by any city may do all things and may take any actions that are necessary or desirable to ensure that it obtains credit as a local grant-in-aid for the aggregate amount of expenditures made by any such educational institution, hospital or redevelopment corporation which would be eligible under the United States Housing Act of 1949, Title I, as amended. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 213

REVENUE PRODUCING MUNICIPAL FACILITIES ACT

§5401. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Airport. "Airport" means:

A. Any area of land or interest in land, structures or portions and improvements of structures, or water which is used, intended for use or useful in connection with any public airport, heliport or other location for the landing or taking off of aircraft; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Facilities incident to the operation of such properties including, but not limited to, runways, hangars, parking areas for aircraft or vehicles, access roads, wharfs, control towers, communication equipment, weather stations, safety equipment, terminal facilities for aircraft and land vehicles, facilities for servicing aircraft and for the sale of oil, gasoline, other fuels and other accessories, waiting rooms, lockers, space for concessions, offices; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. All facilities appurtenant to and all property rights, air rights, easements and interests relating thereto considered necessary for the construction or operation of the airport. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Cost. "Cost," as applied to a revenue-producing municipal facility, includes:

A. The purchase price of any such facility; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The cost of construction; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The cost of all labor, materials, machinery and equipment; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The cost of improvements; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The cost of all lands, property, rights, easements and franchises acquired; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Financing charges; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Interest before and during construction and, if the municipal officers consider it desirable, for one year after construction is completed; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. The cost of plans and specifications, surveys and estimates of cost and of revenues; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. The cost of engineering and legal services; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. All other expenses necessary or incident to determining the feasibility or practicability of construction, administrative expense and any other expenses necessary or incident to the financing authorized in this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Any obligation or expenses incurred by the municipality in connection with any of the items of cost, including the payment in whole or in part of indebtedness incurred to pay such obligations or expenses and interest on those obligations or expenses, may be regarded as a part of that cost and reimbursed to the municipality out of the proceeds of revenue bonds issued under this chapter and Title 10, chapter 110, subchapter IV.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Energy facility. "Energy facility" means:

A. An "energy distribution system project," as defined in Title 10, section 963-A, subsection 12; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6, §6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An "energy generating system project," as defined in Title 10, section 963-A, subsection 13; [PL 2007, c. 671, §4 (AMD).]

C. A hydroelectric power facility; or [PL 2007, c. 671, §5 (AMD).]

D. A "qualified project" as defined in the United States Internal Revenue Code, 26 United States Code, Section 54(d)(2)(A) (2007). [PL 2007, c. 671, §6 (NEW).]

This term also includes any combination or part of these facilities or any equipment and structures designed to distribute or transmit energy either from or to these facilities.

[PL 2007, c. 671, §§4-6 (AMD).]

4. Improvements. "Improvements" means those repairs, replacements, additions, extensions and betterments of and to a revenue-producing municipal facility that the municipal officers consider necessary to place or maintain the revenue-producing municipal facility in proper condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the municipality and for which no existing service is being provided.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Parking facility. "Parking facility" means any land or any interest in land, structure or portions of structures, and improvements on land or structures intended for the off-street parking of motor vehicles by the public for a fee. Any such structure may be either single or multi-level and either at, above or below the surface. This term also includes:

A. Facilities incident to the operation of those properties for the parking of motor vehicles, including, without limitation, ancillary waiting rooms, lockers, space for concessions, stores and offices, terminal facilities for trucks and buses, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, and all facilities appurtenant to these incident operations; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. All property, rights, easements and interests relating to the facility that are considered necessary for the construction or operation of the facility. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Parking system. "Parking system" means any parking facility, together with any public way or public parking area designated by the municipal officers as constituting part of that system on which parking meters have been or may be installed or from which fees or charges have been or may be collected for the parking of vehicles.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Revenue-producing municipal facility. "Revenue-producing municipal facility" means:

A. A parking facility within the corporate limits of the municipality; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any of the following within or outside or partly within and partly outside the corporate limits of the municipality:

(1) A water system or part of that system;

(2) A sewer system or part of that system;

(3) An airport or part of an airport;

(4) A telecommunications system or part of that system;

(5) An energy facility or part of that facility; or

(6) A community broadband system or part of that system. [PL 2019, c. 108, §1 (AMD).]

[PL 2019, c. 108, §1 (AMD).]

8. Sewage disposal system. "Sewage disposal system" means any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection,

treatment, purification or disposal of sewage, including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources. This term also includes:

A. Any integral part of such a facility, including, but not limited to, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. All property, rights, easements and franchises relating to the facility that the municipal officers consider necessary or convenient for the operation of the system. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Water system. "Water system" means all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water. This term also includes:

A. Any integral part of such a facility, including, but not limited to, water supply systems, water distribution systems, reservoirs, wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and all necessary appurtenances and equipment; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. All property, rights, easements and franchises relating to the facility that the municipal officers consider necessary or convenient for the operation of the system. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 671, §§4-6 (AMD). PL 2019, c. 108, §1 (AMD).

§5402. Declaration of public necessity

The Legislature finds that: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Need for water and sewer systems. The maintenance of safe and pure water supplies and the control of water pollution are necessary to the health, safety and general welfare of the public, and the people of the State require new and improved water and sewer systems in order to avoid the menace to public health and damage to the economy created by impure water and untreated sewage;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1-A. Need for broadband systems. Access to affordable, reliable, high-speed broadband Internet is necessary to the general welfare of the public, and the people of the State and its economy require connection to existing publicly built infrastructure as a means of cultivating entrepreneurial activity, attracting business, improving access to modernized methods of education and health care and encouraging people to move to this State;

[PL 2019, c. 108, §2 (NEW).]

2. Need for free traffic circulation. The free circulation of traffic of all kinds through the streets of the municipalities of the State is necessary for the rapid and effective fighting of fires and disposition of police forces in those municipalities for the health, safety and general welfare of the public, whether residing in those municipalities or traveling to, through or from the municipalities;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Need for parking facilities. In recent years, the parking of motor vehicles of all kinds has so substantially impeded the free circulation of traffic as to constitute a public nuisance endangering the health, safety and welfare of the general public, as well as endangering the economic life of the municipalities; and this traffic congestion cannot be adequately abated except by provisions for sufficient off-street parking facilities;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Need for airports. The establishment and improvement of municipal airports are necessary for the health, safety and general welfare of the public; and the people of the State require new and improved public airports and related facilities in order to avoid and reduce the hazards of air transportation and damage to the economy created by inadequate, unsafe and obsolete airports and airport facilities; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Public necessity. The enactment of laws to carry out the intent and purpose of this section is therefore a public necessity.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 108, §2 (AMD).

§5403. General grant of powers

A municipality may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Revenue-producing municipal facilities. Acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any revenue-producing municipal facility;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Bonds. Issue revenue bonds of the municipality as provided to pay the cost of acquisition, construction, reconstruction, improvement, extension, enlargement or equipment;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Revenue-refunding bonds. Issue revenue-refunding bonds of the municipality as provided to refund any revenue bonds then outstanding which were issued under this chapter;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Rates and fees. Fix and revise from time to time and collect rates, fees and other charges for the use of or for the services and facilities furnished by any revenue-producing municipal facility;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Pledge of revenues. Pledge the revenues derived from any revenue-producing municipal facility to the payment of revenue or revenue-refunding bonds issued with respect to that revenue-producing municipal facility.

A. This subsection applies to any parking facility or system notwithstanding section 3009, subsection 1, paragraph C, subparagraph (3); [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Acquisition of land or personalty. Acquire in the municipality's name either by gift, purchase, lease, or the exercise of the right of eminent domain land, rights in land or water or air rights in connection with the construction, reconstruction, improvement, extension, enlargement or operation of revenue-producing municipal facilities; acquire any personal property, that it considers necessary in connection with those activities; and hold and dispose of all real and personal property under its control;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Contracts; employment of specialists. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any revenue bonds issued under this chapter; employ any consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and any other employees and agents that it considers necessary; and fix their compensation, provided that all such expenses are payable solely from funds made available under this chapter;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Jurisdiction and control. Exercise jurisdiction, control and supervision over any revenue-producing municipal facility owned, operated or maintained by the municipality, make and enforce any regulations for the maintenance and operation of any such system that are, in the judgment of the municipal officers, necessary or desirable for the efficient operation of any such system and for accomplishing the purposes of this chapter;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Right of entry; surveys. Enter on any lands, water or premises located within or outside the municipality to make surveys, borings, soundings or examinations for the purposes of this chapter;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Use of streets and highways. Enter upon, use, occupy and dig up any street, alley, road, highway or other public places necessary to be entered upon, used or occupied in connection with the acquisition, construction, reconstruction, improvement, maintenance or operation of any revenue-producing municipal facility.

A. When highways maintained by the State are affected, the municipality is subject to the same statutory provisions applicable to those corporations authorized to lay their pipes and conduits in the public ways; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Contracts. Enter into contracts with the Federal Government, with the State or any agency or instrumentality of the State, or with any other municipality, district, private corporation, copartnership, association or individual providing for or relating to the revenue-producing municipal facility;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Loans and grants. Accept from any authorized agency of the Federal Government or the State loans or grants for the planning, construction or acquisition of any revenue-producing municipal facility or part of a revenue-producing municipal facility; enter into agreements with that agency concerning any such loans or grants; and receive and accept aid and contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants and contributions may be made;
[PL 2005, c. 556, §1 (AMD).]

13. General powers. Do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter;
[PL 2019, c. 108, §3 (AMD).]

14. Community septic systems. As a means of facilitating compact growth patterns, including cluster developments, construct, maintain and operate a sewer system that is composed of one or more subsurface wastewater collection, treatment and disposal systems. The municipality may construct such a sewer system in anticipation of the establishment of a community sanitary district under Title 38, chapter 11-A, to which the municipality will transfer the system pursuant to Title 38, section 1232. For purposes of this subsection, "cluster development" has the same meaning as in section 4301, subsection 1-A; and
[PL 2019, c. 108, §4 (AMD).]

15. Communications services systems; community broadband systems. Construct, maintain and operate a municipal or multimunicipal system composed of infrastructure capable of being utilized by communications service providers for the provision of communications services. For the purposes of this subsection, "communications service" has the same meaning as in Title 35-A, section 9202, subsection 3 and "communications service provider" has the same meaning as in Title 35-A, section 9202, subsection 4.

Nothing in this chapter restricts a municipality from purchasing, leasing, constructing or equipping facilities that are designed to provide communications services. Nothing in this chapter restricts a municipality from using community broadband systems for internal municipal government purposes or, by written contract, leasing, selling capacity in or granting other similar rights to communications service providers to use the facilities in connection with the provider's offering communications services.
[PL 2019, c. 108, §5 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2005, c. 556, §§1,2 (AMD). PL 2019, c. 108, §§3-5 (AMD).

§5404. Issuance of revenue bonds

1. Balloting for bonds. Subject to the restriction set forth in paragraph A, the municipal officers of any municipality with a population of 1,000 or more according to the most recent Federal Decennial Census may provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the municipality to pay the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any revenue-producing municipal facility.

A. Revenue bonds of a town, as distinguished from a city, may not be issued until the general purpose for which the bonds are to be issued and the maximum principal amount of the bonds to

be authorized have been approved by ballot by a majority of the votes cast on the question. The total number of votes cast must be equal to at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election. The ballot submitted to the voters of a town to authorize the issuance of revenue bonds must state the general purpose for which the proposed bonds are to be issued and the maximum principal amount of the proposed bonds authorized to be issued. The voting at meetings held in towns must be held and conducted in accordance with sections 2528 to 2531-B, even if the town has not accepted the provisions of section 2528. [PL 2011, c. 255, §10 (AMD).]

[PL 2011, c. 255, §10 (AMD).]

1-A. Financial statements required. The treasurer of the municipality shall prepare a signed statement to accompany any question submitted to the electors for ratification of a revenue-producing or revenue-refunding bond issue. The statement must set forth:

A. The total amount of bonds of the municipality outstanding and unpaid, the total amount of bonds of the municipality authorized and unissued and the total amount of bonds of the municipality contemplated to be issued if the enactment submitted to the electors is ratified; [PL 1991, c. 269, §2 (NEW).]

B. An estimate and explanation of costs involved, including varying interest rates, the estimated cost of interest on the bond amount to be issued, the total cost of principal and interest to be paid at maturity and any other substantive information relating to the debt of the municipality as the treasurer may deem appropriate; and [PL 1991, c. 269, §2 (NEW).]

C. A declaration that the validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the estimate made pursuant to paragraph B. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance. [PL 1991, c. 269, §2 (NEW).]

[PL 1991, c. 269, §2 (NEW).]

2. Maturity; interest. The bonds of each issue of revenue bonds shall:

A. Be dated; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Mature at the time or times, not exceeding 30 years from their date or dates of issuance, and bear interest at a rate or rates determined by the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The bonds may be made redeemable before maturity, at the municipality's option, at the price or prices and under terms and conditions fixed by the municipal officers before the bonds are issued.

Revenue bonds issued under this chapter do not constitute a debt or liability of the municipality or a pledge of the faith or credit of the municipality. The bonds are payable solely from the funds provided for that purpose. A statement to that effect shall be recited upon the face of the bonds.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Form; execution. The municipal officers shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and the manner of execution of the bonds. They shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. The place of payment may be at any bank or trust company within or outside the State. The municipal officers may issue the bonds in coupon or registered form, or both, as they determine. They may provide for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and

interest. Notwithstanding any other provision of this chapter or any recitals in any bond issued under this chapter, all bonds issued under this chapter are deemed to be negotiable instruments issued under the laws of the State.

A. Revenue bonds shall be executed in the name of the municipality by the manual or facsimile signature of the official or officials authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any attached to the bonds, shall be executed with the facsimile signature of the officer or officers of the municipality designated in the resolution.

(1) If any officer whose signature or a facsimile of whose signature will appear on any bonds or coupons ceases to be an officer before the bonds are delivered, that signature or facsimile is valid for all purposes the same as if that officer had remained in office until the delivery. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Sale; use of proceeds; additional bonds. The municipal officers may sell the bonds in such manner, either at public or private sale, and for such price, as they determine to be for the best interests of the municipality. The proceeds shall be disbursed in any manner and under any restrictions, if any, that the municipal officers provide in the resolution authorizing the issuance of the bonds or in the trust agreement under section 5408 securing the bonds.

A. If the proceeds of the bonds, by error of estimates or otherwise, are less than the cost of the facility, additional bonds may be issued in like manner to provide the amount of the deficit, provided the aggregate principal amount of revenue bonds of a town may not exceed the amount approved by the voters under subsection 1, paragraph A. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the bonds, these additional bonds are deemed to be of the same issue and are entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. The resolution providing for the issuance of revenue bonds, and any trust agreement securing the bonds, may contain any limitations upon the issuance of additional revenue bonds that the municipal officers consider proper. Any additional bonds shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Temporary bonds; replacement bonds. Before the preparation of definitive bonds, the municipal officers may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and available for delivery. The municipal officers may provide for the replacement of any bonds which are mutilated, destroyed or lost.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Agency approval; additional conditions. Bonds, except bonds for water system purposes, may be issued under this chapter without obtaining the consent of any commission, board, bureau or agency of the State or of the municipality, and without any other proceeding or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 269, §2 (AMD). PL 1993, c. 608, §17 (AMD). PL 2011, c. 255, §10 (AMD).

§5405. Revenues

1. General. The municipal officers shall fix the schedule of rates, fees and other charges for the use of, and for the services furnished or to be furnished by any revenue-producing municipal facility. The municipal officers may revise this schedule of rates, fees and charges from time to time. These rates, fees and charges, except rates, fees and charges for water system purposes, are not subject to supervision or regulation by any other commission, board, bureau or agency of the municipality or of the State. The municipality shall charge and collect the rates, fees and charges so fixed or revised. Except as otherwise provided, these rates, fees and charges, including, in the case of parking facility rates, fees and charges for parking on the public ways or in the public parking areas included in the parking system designated by the municipal officers of which the parking facility is a part, shall be fixed and revised to provide funds which, together with all other funds available for the purpose, will be sufficient at all times to pay the cost of maintaining, repairing and operating the revenue-producing municipal facility and parking system, including reserves for those purposes, and to pay the principal of and interest on the revenue bonds, as the same becomes due and payable, and reserves for that purpose. The rates, fees and charges must be reasonable, just and equitable.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Water and sewer system rates. The following provisions govern water and sewer system rates.

A. In the case of a water system or a sewer system, rates, fees and charges may be based or computed upon:

(1) The quantity of water used;

(2) The number and size of water or sewer connections;

(3) The number and kind of plumbing fixtures in use in the premises connected to the system;

(4) The number or average number of persons residing in or working in or otherwise connected with the premises;

(5) The type or character of the premises;

(6) Any other factor affecting the use of the facilities furnished; or

(7) Any combination of these factors. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In cases where the character of the sewage from any industrial or manufacturing plant, building or premises is such that it imposes an unreasonable burden upon the sewer system, the municipal officers may:

(1) Impose an additional charge for that sewage; or

(2) Require the industrial or manufacturing plant, building or premises to treat the sewage in a manner specified by the municipal officers before discharging the sewage into the sewers owned or maintained by the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. If it is determined to compute sewer charges on the basis of the quantity of water used, any water district or water company subject to supervision or regulation by the Public Utilities Commission shall provide the municipality with any information or data that the municipality requests for those purposes. The water district or water company is not liable to any person for releasing to the municipality any information or data that the municipality requests.

(1) Any charges for sewer services, including sewer services to manufacturing and industrial plants obtaining all or a part of their water supply from sources other than the municipal water system, may be determined by gauging or metering or in any other manner approved by the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. There is a lien on real estate served or benefitted by a water system, sewer system or water and sewer system to secure the payment of rates, fees or charges established under this chapter. This lien arises and is perfected as services are provided and takes precedence over all other claims on the real estate, excepting only claims for taxes. The treasurer of the municipality may collect these rates, fees and charges in the same manner as provided in Title 38, section 1208 for treasurers of sanitary sewer districts with respect to rates established and due under Title 38, section 1202. [PL 2015, c. 174, §2 (AMD).]

[PL 2015, c. 174, §2 (AMD).]

3. Parking system rates. In the case of a parking facility and a public way or parking area, whether or not included within the parking system designated by the municipal officers, the rates, fees or charges fixed or revised by the municipal officers need not be uniform throughout the system or in all parts of the municipality, but shall take into account the primary purpose of relieving traffic congestion and encouraging free circulation throughout the municipality. In fixing or revising reasonable, just and equitable rates, fees and charges under subsection 1 or under section 3009, subsection 1, paragraph C, when adequate parking facilities for the accommodation of traffic have been provided and paid for, the rates, fees and charges shall be adjusted to provide funds for maintenance and operation only.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Airport rates. In the case of an airport or part of an airport, the rates, fees and charges may be based or computed upon square footage, gross receipts, landings or other basis which is reasonably related to the use of or service furnished by the revenue-producing facility.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Telecommunication system rates. In the case of a telecommunications system or part of such a system, the rates, fees and charges must be adequate, just, reasonable, nondiscriminatory and uniform throughout the corporate limits of the municipality. They shall be based upon the extent and quality of service, number of channels, hours of operation, variety of programs, local coverage, safety measures, installation costs and other basis which are reasonably related to the use of or service furnished by the telecommunications system revenue-producing facility.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2015, c. 174, §2 (AMD).

§5406. Collection of revenue-producing facilities' charges

Any resolution providing for the issuance of revenue bonds for a revenue-producing municipal facility under this chapter, or the trust agreement securing the bonds, may include any or all of the following provisions and may require the municipal officers to adopt any resolutions or take any other lawful action that is necessary to effectuate these provisions that: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Deposits. The municipality may require the owner, tenant or occupant of each lot or parcel of land who is obligated to pay rates, fees or charges for the use of or for the services furnished by any revenue-producing municipal facility owned or operated by the municipality to make a reasonable deposit with the municipality in advance to ensure the payment of the rates, fees or charges and to be subject to application to the payment of those rates, fees or charges if and when delinquent; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Procedure for collection. If the rates, fees or charges for the use of or for the services furnished by any sewer system owned or operated by the municipality by or in connection with any premises not served by a water system owned or operated by the municipality are not paid, those rates, fees and charges will be collected in accordance with sections 3444, 3445 and 5405.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5407. Application of revenues; annual report

1. Use of revenues. The resolution authorizing the issuance of revenue bonds under this chapter, or any trust agreement securing the bonds, may provide that all or a sufficient amount of the revenues derived from the revenue-producing municipal facility, including any portion of the facility financed with revenue bonds issued under this chapter, after providing for the payment of the cost of repair, maintenance and operation and reserves for those purposes as may be provided in the resolution or trust agreement, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited to the credit of a sinking fund to pay the interest on and the principal of revenue bonds issued under this chapter as they become due, and the redemption price or purchase price of bonds retired by call or purchase.

A. The use and disposition of money to the credit of the sinking fund is subject to any regulations provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. Unless otherwise provided in the resolution or trust agreement, the sinking fund is a fund for the benefit of all bonds without distinction or priority of one over another. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Annual report. At least once each year, the municipality shall have a comprehensive report made of the operations of the revenue-producing municipal facility, including all matters relating to rates, revenues, expense of repair, maintenance and operation and of renewals and replacements, principal and interest requirements and the status of all funds. Copies of the annual report shall be filed with the municipal clerk. These copies are open to the inspection of all interested persons.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5408. Pledges and covenants; trust agreement

In the discretion of the municipal officers of any municipality, any issue of revenue bonds may be secured by a trust agreement by and between the municipality and a corporate trustee, which may be any trust company within or outside the State. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Pledge of revenues; conveyance or mortgage prohibited. The resolution authorizing the issuance of the bonds or the trust agreement may pledge the revenues to be received from the revenue-producing municipal facility, including that portion of the revenue-producing municipal facility financed with revenue bonds issued under this chapter, but may not convey or mortgage any revenue-producing municipal facility or a portion of a revenue-producing municipal facility financed with revenue bonds issued under this chapter. All pledges of revenue under this chapter are valid and binding from the time when the pledge is made. All revenues received by a municipality after being pledged are immediately subject to the lien of those pledges without any physical delivery thereof or further action under the Uniform Commercial Code or otherwise. The lien of these pledges is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the municipality, whether or not those parties have notice of the lien.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Rights and remedies of bondholders. The resolution may also contain any provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the municipality and the municipal officers in relation to:

A. The acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of any revenue-producing municipal facility or related system or systems; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The fixing and revising of rates, fees and charges; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The custody, safeguarding and application of all money; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The employment of consulting engineers in connection with the acquisition, construction, reconstruction or operation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The resolution or trust agreement may contain any other provisions that the municipal officers consider reasonable and proper for the security of the bondholders. The resolution or trust agreement may set forth the rights and remedies of the bondholder and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Payment of proceeds and revenues. Except as provided otherwise in this chapter, the municipal officers may provide:

A. For the payment of the proceeds of the sale of the bonds and the revenues of any revenue-producing municipal facility or part of any revenue-producing municipal facility to any officer, board or depositary that they designate for the custody of the proceeds and revenues; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. For the method of disbursement of the proceeds and revenues, with any safeguards and restrictions that they determine. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5409. Trust funds

Notwithstanding any other law, all money received under the authority of this chapter is deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that any officer to whom, or bank, trust company or other fiscal agent to which, this money is paid, act as trustee of the money and hold and apply the money for the purposes of this chapter, subject to any regulations provided in the resolution or trust agreement or required by this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5410. Remedies

Except to the extent that rights given are restricted by the resolution authorizing the issuance of the bonds or the trust agreement, any holder of revenue bonds issued under this chapter or of any of the coupons appertaining to those bonds and the trustee under any trust agreement may by suit, action, mandamus or other proceeding, either at law or in equity, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution or trust agreement. The holder or trustee may enforce and compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the municipality, the municipal officers or any municipal official, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the revenue-producing municipal facility. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5411. Revenue-refunding bonds

1. Issuance of refunding bonds; purposes. The municipal officers may provide by resolution for the issuance of revenue-refunding bonds of the municipality for the purpose of:

A. Refunding any revenue bonds then outstanding which were issued under this chapter, including the payment of any redemption premium on those bonds and any interest accrued or to accrue to the date of redemption of those bonds; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If considered advisable by the municipal officers, constructing improvements, extensions or enlargements of the revenue-producing municipal facility in connection with which the bonds to be refunded were issued. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Issuance of revenue bonds; purposes. The municipal officers may provide by resolution for the issuance of revenue bonds of the municipality for the combined purpose of:

A. Refunding any revenue bonds or revenue- refunding bonds then outstanding which were issued under this chapter, including the payment of any redemption premium on those bonds and any interest accrued or to accrue to the date of redemption of those bonds; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Paying all or any part of the cost of acquiring or constructing any additional revenue-producing municipal facility or part thereof, or any improvements, extensions or enlargements of any revenue-producing municipal facility. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Applicability of other sections. The issuance of the bonds, the maturities and other details of the bonds, the rights and remedies of the holders of bonds and the rights, powers, privileges, duties and obligations of the municipality and the municipal officers with respect to the bonds, are governed by sections 5401 to 5410, as applicable.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5412. Authorizing resolution

Notwithstanding any other law or any charter or charter amendment previously adopted by a municipality, or any ordinance, resolution, bylaw or regulation of a municipality, it is not necessary to publish any resolution adopted under this chapter, either before or after its final passage. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5413. Exemption from taxation

As proper revenue-producing municipal facilities are essential for the health and safety of the inhabitants of the municipalities, and as the exercise of the powers conferred to effect these purposes constitutes the performance of essential governmental functions, and as municipal facilities acquired or constructed under this chapter constitute public property and are used for municipal purposes, no municipality may be required to pay any taxes or assessments upon any parking facility or system, water or sewer system, community broadband system or telecommunications system revenue-producing municipal facility, or any part of such a system, whether located within or outside the corporate limits of the municipality, or upon the income from those facilities. Any bonds issued under this chapter, and their transfer and the income from the bonds, including any profit made on the sale of the bonds, are free from taxation within the State, except that nothing in this section exempts any lessee or person in possession of a parking facility or part of a parking facility or the property so leased or possessed from taxes or assessments payable under Title 36, section 551. [PL 2019, c. 108, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 108, §6 (AMD).

§5414. Alternative method

This chapter shall not be construed to limit a municipality's home rule authority. Sections 5401 to 5413 shall be deemed to provide an additional and alternative method for the doing of the things described and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local, provided that the issuance of revenue bonds or revenue-refunding bonds under these sections need not comply with the requirements of any other general or special law applicable to the issuance of bonds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5415. Liberal construction

This chapter, being necessary for the welfare of municipalities and their inhabitants, shall be liberally construed to effect its purposes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBPART 9

FISCAL MATTERS

CHAPTER 221

MUNICIPAL TREASURER

§5601. Bond

Before assuming the duties of office, the treasurer must give a surety bond to the municipality subject to the following provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Condition. The bond shall be conditioned on the treasurer's faithful discharge of all the duties of office.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Type. The bond may be a corporate surety bond or an individual surety bond.

A. If the bond is an individual surety bond, the surety shall provide the municipal officers with a detailed sworn statement of the surety's personal financial ability. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Amount. The bond need not be for more than twice the amount of taxes to be collected during the municipal year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. How paid. The municipality shall pay for the bond.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Sufficiency. The municipal officers are the sole judges of the sufficiency of the bond and sureties.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Recorded. After the municipal officers approve the bond, the clerk shall record the bond.

A. This record is prima facie evidence of the contents of the bond. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Failure to record the bond is not a defense to an action on it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5602. Notice of choice of treasurer

When a treasurer is qualified and chosen, the clerk shall send the name of the treasurer to the Treasurer of State. The Treasurer of State shall not send money to any municipality until receiving the name of its treasurer. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5603. Powers and duties

The treasurer has the following powers and duties. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Powers. The treasurer may:

A. Make deductions from the salary of a municipal employee and pay the money deducted to the proper payee, when the employee gives the written authority to do so. The treasurer's authority to make a deduction continues until:

(1) The employee revokes the authorization in writing; or

(2) The treasurer knows that the reason for the deduction no longer exists. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties. The treasurer shall:

A. Except as provided in subparagraphs (1) to (3), and except as otherwise provided by charter or ordinance, disburse money only on the authority of a warrant drawn for the purpose, affirmatively voted and signed by a majority of the municipal officers.

(1) The municipal officers may adopt a written policy to permit the disbursement of employees' wages and benefits when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers.

(2) The municipal officers may adopt a written policy to permit the disbursement of payments for municipal education costs when a disbursement warrant has been signed by the school superintendent and approved by a majority of the school board or by a finance committee appointed or duly elected by the school board. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers.

(3) The municipal officers may adopt a written policy to permit the disbursement of state fees when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers; [PL 2009, c. 6, §1 (AMD).]

B. Upon request, provide an account of the finances of the municipality and exhibit the official records to the municipal officers or to any committee appointed by them to examine the accounts. The municipal officers shall examine the treasurer's accounts at least once every 3 months; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Maintain a bank account in the municipality's name for the deposit of cash receipts. The treasurer shall deposit all cash receipts in the bank within 10 days. The treasurer may not

commingle funds of the municipality with any personal funds or in any personal account of the treasurer. [PL 2009, c. 193, §2 (AMD).]

[PL 2009, c. 6, §1 (AMD); PL 2009, c. 193, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 271 (AMD). PL 1993, c. 96, §2 (AMD). PL 1995, c. 83, §1 (AMD). PL 1995, c. 549, §1 (AMD). PL 2009, c. 6, §1 (AMD). PL 2009, c. 193, §2 (AMD).

§5604. Payment out of treasury

The treasurer of any municipality shall not pay out any funds for an account or claim against the municipality unless the account or claim is itemized and declared to be a public record. Notwithstanding Title 17-A, section 4-A, violation of this section is a Class E crime, punishable by a fine of not more than $300 or by imprisonment for not more than 30 days, or both. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 223

MUNICIPAL FINANCES

SUBCHAPTER 1

GENERAL PROVISIONS

§5651. Determination of municipal year; change

The municipal officers shall determine the municipal fiscal year. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §8, 10 (AMD).]

A municipality or plantation may raise one or 2 taxes during a single valuation if the taxes raised are based on appropriations made for a municipal fiscal year that does not exceed 18 months. A municipal or plantation fiscal year may extend beyond the end of the current tax year and the municipal officers or assessors of a plantation, when changing the municipality's or plantation's fiscal year, may, for transition purposes, adopt one or more fiscal years not longer than 18 months each. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5652. Donation of money

The municipal officers may accept a donation of money to the municipality to supplement a specific appropriation already made, to reduce the tax assessment, to endow a municipal education foundation pursuant to section 5724, subsection 10 or to reduce the permanent debt. [PL 2007, c. 405, §1 (AMD).]

1. Reducing the tax assessment. If the assessors receive written notice from the municipal officers that a sum has been paid to the municipality for the purpose of reducing the tax assessment, they shall reduce it in that amount before establishing the tax rate. If the tax rate has already been established, the treasurer shall deposit the money in a bank, trust company or national bank in the State, and withdraw it at the proper time to reduce the tax assessment for the following taxable year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Funding municipal education foundations. A municipality may accept endowment funds from citizens, estates, municipal contributions and bond money to fund a municipal education foundation to support local education pursuant to section 5724, subsection 10. The foundation may not spend the funds until it meets certain growth standards recommended by the Department of Administrative and Financial Services.
[PL 2011, c. 655, Pt. DD, §11 (AMD); PL 2011, c. 655, Pt. DD, §24 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 405, §§1, 2 (AMD). PL 2011, c. 655, Pt. DD, §11 (AMD). PL 2011, c. 655, Pt. DD, §24 (AFF).

§5653. Gifts of money or property in trust

This section governs a municipality's receipt of money or other property in trust for any specified public purpose. The municipal officers shall serve as trustees unless otherwise specified in the trust instrument. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Acceptance or rejection. When the municipal officers receive written notice from a prospective donor or a representative of a proposed trust, they shall submit the matter at the next meeting of the municipal legislative body. Within 10 days after the meeting, the municipal officers shall send written notice of its acceptance or rejection to the donor or the donor's representative.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Deposited or invested. Unless otherwise specified by the terms of the trust, the municipal officers shall either deposit or invest trust funds according to subchapter III-A.

A. Unless the instrument or order creating the trust prohibits, the municipal officers may treat any 2 or more trust funds as a single fund solely for the purpose of investment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. After deducting management expenses, the municipal officers shall prorate any interest earned or capital gains realized among the various trust funds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The municipal officers shall retain any property or securities included in the corpus of a trust fund where the trust instrument so provides. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Unless otherwise specified in the trust instrument, the municipal officers may spend only the annual income from the trust fund. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Reversion to donor. If the municipality fails to comply with the terms of the trust instrument, the trust fund reverts to the donor or the donor's heirs.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5654. Conditional gifts

This section governs a municipality's receipt of a conditional gift for any specified public purpose.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Acceptance or rejection. When the municipal officers receive written notice from a prospective donor or a representative of the proposed gift, they shall submit the matter at the next meeting of the municipal legislative body. Within 10 days after the meeting, the municipal officers shall send written notice of their acceptance or rejection to the donor or the donor's representative.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Perpetually comply with conditions. When the donor or the donor's representative has completed the donor's part of the agreement concerning the execution of a conditional gift, the municipality shall perpetually comply with, and may raise money to carry into effect, the conditions upon which the agreement was made.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Deposited or invested. Unless otherwise specified by its terms, a conditional gift of money may be deposited or invested according to subchapter III-A.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5655. Unconditional gifts

A gift without conditions, of any type of property, offered to a municipality may be accepted or rejected by its legislative body, except for forfeited assets conveyed to the municipality pursuant to Title 15, chapter 517, which may be accepted or rejected by the municipal officers. [PL 1999, c. 408, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 408, §5 (AMD).

§5656. Procurement of recycled goods

1. Review of standards. Each municipality shall review its procurement procedures and specifications to identify procedures and specifications that explicitly discriminate against goods,

supplies, equipment, materials and printing with recycled content. Each municipality may revise its procedures and specifications to:

A. Encourage the use of goods, supplies, equipment, materials and printing with recycled content; and [PL 1989, c. 585, Pt. C, §15 (NEW).]

B. Ensure, to the maximum extent economically feasible, that it purchases goods, supplies, equipment, materials and printing that may be recycled or reused when such goods, supplies, equipment, materials and printing are discarded. [PL 1989, c. 585, Pt. C, §15 (NEW).]

[PL 1989, c. 585, Pt. C, §15 (NEW).]

2. Preferences for recycled goods. In revising its procurement procedures and specifications under subsection 1, each municipality may:

A. Establish a preference for paper with recycled content consistent with the standards established for state agencies under Title 5, section 1812-B; and [PL 1989, c. 585, Pt. C, §15 (NEW).]

B. Establish specifications for bids for public contracts that require all bidders to propose that a stated minimum percentage of goods, supplies, equipment or materials to be used for the contract be made from recycled material. [PL 1989, c. 585, Pt. C, §15 (NEW).]

[PL 1989, c. 585, Pt. C, §15 (NEW).]

3. Other laws. The options set forth in this section may be exercised, notwithstanding any other provision of law to the contrary.

[PL 1989, c. 585, Pt. C, §15 (NEW).]

4. Interlocal cooperation. The provisions of this section shall apply to agreements of interlocal cooperation established pursuant to chapter 115 and to cooperative purchasing programs administered by regional councils established pursuant to chapter 119.

[PL 1989, c. 585, Pt. C, §15 (NEW).]

SECTION HISTORY

PL 1989, c. 585, §C15 (NEW).

SUBCHAPTER 2

STATE FUNDS

§5681. State-municipal revenue sharing

1. Findings and purpose. The Legislature finds that:

A. The principal problem of financing municipal services is the burden on the property tax; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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

A. "Population" means the population as determined by the latest Federal Decennial Census or the population as determined and certified by the Department of Health and Human Services,

whichever is later. For the purposes of this section, the Department of Health and Human Services shall determine the population of each municipality at least once every 2 years. For the purposes of the distributions required by this section, beginning July 1, 2009, "population" means the most current population data available as of the January 1st prior to the fiscal year of distribution. [PL 2007, c. 662, §1 (AMD).]

B. "Property tax burden" means the total real and personal property taxes assessed in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State. [PL 2007, c. 662, §1 (AMD).]

C. [PL 2009, c. 213, Pt. S, §1 (RP); PL 2009, c. 213, Pt. S, §16 (AFF).]

D. [PL 2009, c. 213, Pt. S, §2 (RP); PL 2009, c. 213, Pt. S, §16 (AFF).]

E. "Disproportionate tax burden" means the total real and personal property taxes assessed in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State and reduced by .01. Beginning on July 1, 2013 and each July 1st thereafter, if the total revenue-sharing distribution as calculated by subsection 5 is distributed to the municipalities without transfer or reduction, the reduction factor must be increased by either .0005 or the percentage increase necessary to equal the statewide average property tax rate, whichever increase is smaller, until the fiscal year when the percentage reduction factor reaches the statewide average property tax rate. [PL 2011, c. 656, §1 (AMD).]

F. "Statewide average property tax rate" means the total real and personal property taxes assessed in all municipalities in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the total latest state valuation certified to the Secretary of State. [PL 2011, c. 656, §2 (NEW).]

[PL 2011, c. 656, §§1, 2 (AMD).]

3. Revenue-sharing funds. To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund. To provide additional support for municipalities experiencing a higher-than-average property tax burden, there is established the Disproportionate Tax Burden Fund.

[PL 2009, c. 213, Pt. S, §3 (AMD); PL 2009, c. 213, Pt. S, §16 (AFF).]

4. Sharing the Local Government Fund.

[PL 1999, c. 731, Pt. U, §3 (RP).]

4-A. Distribution of Local Government Fund. The Treasurer of State shall transfer the balance in the Local Government Fund on the 20th day of each month. Money in the Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the property tax burden of the municipality.

[PL 1999, c. 731, Pt. U, §4 (NEW).]

4-B. Distribution of Disproportionate Tax Burden Fund. The Treasurer of State shall transfer the balance in the Disproportionate Tax Burden Fund on the 20th day of each month. Money in the Disproportionate Tax Burden Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the disproportionate tax burden of the municipality.

[PL 1999, c. 731, Pt. U, §4 (NEW).]

5. Transfers to funds. No later than the 10th day of each month, the State Controller shall transfer to the Local Government Fund 5% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, except that for fiscal years 2015-16, 2016-17, 2017-

18 and 2018-19 the amount transferred is 2%, for fiscal year 2019-20 the amount transferred is 3% and for fiscal year 2020-21 the amount transferred is 3.75% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, and except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund. A percentage share of the amounts transferred to the Local Government Fund each month must be transferred to the Disproportionate Tax Burden Fund and distributed pursuant to subsection 4-B as follows:

A. [PL 2009, c. 213, Pt. S, §4 (RP); PL 2009, c. 213, Pt. S, §16 (AFF).]

B. [PL 2009, c. 213, Pt. S, §4 (RP); PL 2009, c. 213, Pt. S, §16 (AFF).]

C. For months beginning on or after July 1, 2009 but before July 1, 2010, 15%; [PL 2009, c. 213, Pt. S, §4 (NEW); PL 2009, c. 213, Pt. S, §16 (AFF).]

D. For months beginning on or after July 1, 2010 but before July 1, 2011, 16%; [PL 2009, c. 213, Pt. S, §4 (NEW); PL 2009, c. 213, Pt. S, §16 (AFF).]

E. For months beginning on or after July 1, 2011 but before July 1, 2012, 17%; [PL 2009, c. 213, Pt. S, §4 (NEW); PL 2009, c. 213, Pt. S, §16 (AFF).]

F. For months beginning on or after July 1, 2012 but before July 1, 2013, 18%; [PL 2009, c. 213, Pt. S, §4 (NEW); PL 2009, c. 213, Pt. S, §16 (AFF).]

G. For months beginning on or after July 1, 2013 but before July 1, 2014, 19%; and [PL 2009, c. 213, Pt. S, §4 (NEW); PL 2009, c. 213, Pt. S, §16 (AFF).]

H. For months beginning on or after July 1, 2014, 20%. [PL 2009, c. 213, Pt. S, §4 (NEW); PL 2009, c. 213, Pt. S, §16 (AFF).]

[PL 2019, c. 343, Pt. H, §1 (AMD).]

5-A. Temporary exception.

[PL 1995, c. 665, Pt. E, §1 (NEW); MRSA T. 30-A §5681, sub-§5-A (RP).]

5-B. Fund for the Efficient Delivery of Local and Regional Services.

[PL 2009, c. 213, Pt. S, §5 (RP); PL 2009, c. 213, Pt. S, §16 (AFF).]

5-C. Transfers to General Fund. For the months beginning on or after July 1, 2009, $25,383,491 in fiscal year 2009-10, $38,145,323 in fiscal year 2010-11, $40,350,638 in fiscal year 2011-12, $44,267,343 in fiscal year 2012-13, $73,306,246 in fiscal year 2013-14 and $85,949,391 in fiscal year 2014-15 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. The amounts transferred to General Fund undedicated revenue each fiscal year pursuant to this subsection must be deducted from the distributions required by subsections 4-A and 4-B based on the percentage share of the transfers to the Local Government Fund pursuant to subsection 5. The reductions in this subsection must be allocated to each month proportionately based on the budgeted monthly transfers to the Local Government Fund as determined at the beginning of the fiscal year.

[PL 2013, c. 368, Pt. J, §1 (AMD).]

6. Plantations and unorganized territory. For purposes of state-municipal revenue sharing, plantations and the unorganized territory shall be treated as if they were municipalities.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Indian territory. For purposes of state-municipal revenue sharing, the Passamaquoddy Tribe and the Penobscot Nation Indian Territories shall be treated as if they were municipalities. In the absence of a levy of real and personal property taxes in either or both Indian territories, the property tax assessment is computed by multiplying the state valuation for the Indian territory for the period for

which revenue sharing is being determined by the most current average equalized property tax rate of all municipalities in the State at that time as determined by the State Tax Assessor.
[PL 1989, c. 871, §1 (NEW); PL 1989, c. 871, §22 (AFF).]

8. Posting of revenue sharing projections. For the purpose of assisting municipalities in a timely manner in their budget development process and in the determination of their property tax levy limits as required by section 5721-A, the Treasurer of State shall post no later than April 15th of each year on the Treasurer of State's website the projected revenue sharing distributions as required by this section according to the most recently issued state revenue forecasts issued by the Revenue Forecasting Committee pursuant to Title 5, chapter 151-B for the subsequent fiscal year beginning on July 1st.
[PL 2007, c. 662, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 871, §§1,22 (AMD). PL 1991, c. 780, §Q1 (AMD). PL 1995, c. 665, §E1 (AMD). PL 1995, c. 665, §E4 (AFF). PL 1999, c. 528, §1 (AMD). PL 1999, c. 731, §§U1-5 (AMD). PL 2001, c. 439, §OO1 (AMD). PL 2001, c. 559, §G1 (AMD). PL 2001, c. 714, §Y1 (AMD). IB 2003, c. 2, §§2,3 (AMD). PL 2003, c. 20, §W1 (AMD). PL 2003, c. 174, §1 (AMD). PL 2003, c. 673, §V5 (AMD). PL 2003, c. 673, §V29 (AFF). PL 2003, c. 689, §B6 (REV). PL 2005, c. 2, §§G1,H1 (AMD). PL 2005, c. 2, §G2 (AFF). PL 2005, c. 12, §E1 (AMD). PL 2005, c. 266, §1 (AMD). PL 2007, c. 240, Pt. NNN, §1 (AMD). PL 2007, c. 240, Pt. S, §§1, 2 (AMD). PL 2007, c. 437, §1 (AMD). PL 2007, c. 437, §22 (AFF). PL 2007, c. 662, §§1, 2 (AMD). PL 2009, c. 213, Pt. S, §§1-6 (AMD). PL 2009, c. 213, Pt. S, §16 (AFF). PL 2009, c. 462, Pt. E, §1 (AMD). PL 2009, c. 571, Pt. JJ, §1 (AMD). PL 2011, c. 1, Pt. N, §1 (AMD). PL 2011, c. 380, Pt. I, §1 (AMD). PL 2011, c. 656, §§1, 2 (AMD). PL 2013, c. 368, Pt. J, §1 (AMD). PL 2015, c. 267, Pt. K, §1 (AMD). PL 2019, c. 343, Pt. H, §1 (AMD).

§5682. State funds

(REPEALED)

SECTION HISTORY

PL 1989, c. 104, §§A49,C10 (NEW). PL 1989, c. 295 (AMD). PL 1995, c. 368, §E1 (RP).

§5683. Property tax relief

1. Scope. This section establishes a revenue-sharing program that distributes surplus funds from the General Fund during times of prosperity to municipalities experiencing an inordinate amount of growth. The revenue-sharing funds are specifically dedicated to assisting these municipalities in meeting the unusually high costs associated with the capital construction and infrastructure necessary to accommodate growth and development.
[PL 1989, c. 534, Pt. F (NEW).]

2. Definitions. For the purposes of computing the revenue distributions from the Property Tax Relief Fund, the following terms have the following meanings.

A. "Population" means the population as determined by the latest federal decennial census or the population as determined and certified by the Department of Health and Human Services, whichever is more recent. For the purposes of this section, the department is authorized and required to determine the population of each municipality at least once every year. [PL 1989, c. 534, Pt. F (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1989, c. 534, Pt. F (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Property Tax Relief Fund established. There is established the Property Tax Relief Fund for the purpose of distributing unanticipated surplus revenues accruing in the General Fund to

municipalities experiencing high rates of population growth. The purpose of the fund is to assist municipalities in meeting their infrastructure needs.

After the close of each fiscal year, the Governor may request a General Fund appropriation to the Property Tax Relief Fund from the next session of the Legislature in an amount not to exceed 1/2 of the balance remaining after all other required transfers or appropriations from the excess of total General Fund revenues received over accepted estimates in that fiscal year and all required deductions of appropriations, financial commitments, designated funds, transfers from the unappropriated surplus of the General Fund or transfers from the available balance remaining in the General Fund have been made.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount not to exceed 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

The appropriation may not exceed $25,000,000 and may not lapse, but must remain a continuing carrying account to carry out the purpose of this section.
[PL 1995, c. 464, §16 (AMD).]

4. Distributions from Property Tax Relief Fund. Money credited to the Property Tax Relief Fund shall be distributed to each municipality in an amount equal to the ratio of the population in each municipality to the population in the State as a whole.
[PL 1989, c. 534, Pt. F (NEW).]

5. Restrictions on use of funds. Funds distributed to municipalities pursuant to this section shall be expended only after the municipal legislative body has authorized the expenditure in the annual municipal budget. Funds shall be expended only for the following purposes:

A. For capital construction and improvements, land acquisitions, capital equipment acquisitions or other nonrecurring purposes; [PL 1989, c. 534, Pt. F (NEW).]

B. For purposes for which bonds have been previously authorized but not yet issued, in order to eliminate the need to incur the indebtedness; and [PL 1989, c. 534, Pt. F (NEW).]

C. For the local share of state, federal or privately financed capital construction and improvement projects. [PL 1989, c. 534, Pt. F (NEW).]

[PL 1989, c. 534, Pt. F (NEW).]

6. Treasurer of State. The Treasurer of State shall distribute the appropriation balance in the Property Tax Relief Fund no later than 30 days after the legislation appropriating funds for this purpose has been enacted by the Legislature and signed into law by the Governor.
[PL 1995, c. 464, §17 (AMD).]

SECTION HISTORY

PL 1989, c. 534, §F (NEW). PL 1993, c. 707, §N1 (AMD). PL 1995, c. 464, §§16,17 (AMD). PL 2003, c. 689, §B6 (REV).

§5684. Funding for mandated programs

(REPEALED)

SECTION HISTORY

PL 1989, c. 922 (NEW). PL 1991, c. 847, §4 (AMD). PL 1993, c. 28, §1 (RP).

§5685. Funding for required activities

1. Definitions. As used in this section and in the Constitution of Maine, Article IX, Section 21, unless the context otherwise indicates, the following terms have the following meanings.

A. "Local revenues" means revenues generated by local units of government, including property taxes, other locally levied taxes and user fees and other revenues, such as excise taxes collected and retained by local units of government pursuant to statutory authority. [PL 1993, c. 351, §1 (NEW).]

B. "Local unit of government" or "local unit" means a municipality, as defined in this Title; a plantation, as governed by chapter 301; a county; a school administrative unit, as defined in Title 20-A, section 1; or a governmental entity that is:

(1) Created or authorized by special act of the Legislature or authorized to be created by a general purpose unit of government under a general act of the Legislature;

(2) Established to provide public services;

(3) Funded by local revenues;

(4) Governed by a locally elected body or a body appointed by a municipality or county; and

(5) Not an agency of State Government or other entity having statewide authority, jurisdiction or purpose. [PL 1993, c. 351, §1 (NEW).]

C. "Mandate" means any law, rule or executive order of this State enacted, adopted or issued after November 23, 1992 that requires a local unit of government to expand or modify that unit's activity so as to necessitate additional expenditures from that unit's local revenues. "Mandate" includes laws, rules or executive orders that primarily affect the performance of a local unit's governmental activities. [PL 1993, c. 351, §1 (NEW).]

D. "Mandate payment distribution schedule" means a schedule for distribution of state payments required by the Constitution of Maine, Article IX, Section 21, to be made to local units of government during the state fiscal year. [PL 1993, c. 351, §1 (NEW).]

E. "Required state mandate funds" means those state funds required to be paid to local units of government under the Constitution of Maine, Article IX, Section 21. [PL 1993, c. 351, §1 (NEW).]

[PL 1993, c. 351, §1 (NEW).]

2. Requirement for state funding. The State may not impose a mandate on a local unit of government unless the State provides annually at least 90% of the funding for those expenditures from state funds not previously appropriated, allocated or otherwise designated for payment to that local unit of government. The Legislature may impose a mandate on a local unit of government without providing 90% funding as an exception to the provisions of the Constitution of Maine, Article IX, Section 21 if enacted upon the votes of 2/3 of all members elected to the Senate and the House of Representatives. [PL 1993, c. 351, §1 (NEW).]

3. Implementation. In implementing this section and the provisions of the Constitution of Maine, Article IX, Section 21, the following provisions apply.

A. The State may not meet its obligation to provide required state mandate funds by authorizing a local unit of government to levy fees or taxes not previously levied by that local unit of government. [PL 1993, c. 351, §1 (NEW).]

B. The State may not meet its obligation to provide required state mandate funds by requiring a local unit of government to spend funds previously appropriated to that local unit of government. [PL 1993, c. 351, §1 (NEW).]

C. Reduction of state funds that are the State's share of the cost of mandates that have been suspended or reduced does not preclude imposition of a new mandate if the required state mandate funds are provided for that new mandate. [PL 1993, c. 351, §1 (NEW).]

D. Required state mandate funds do not include the costs incurred by local units of government to comply with a federal law or regulation or to become eligible for the receipt of federal funds, except to the extent that the State imposes requirements or conditions that exceed the federal requirements. [PL 1993, c. 351, §1 (NEW).]

E. Required state mandate funds do not include for the costs to local units of government of implementing laws, rules, executive orders or judicial decisions or orders that are required to comply with the following provisions of the Constitution of Maine:

(1) The reapportionment requirements of Article IV, Part First, Section 2 and Article IV, Part Second, Section 2;

(2) The constitutional referenda provisions of Article X, Section 4;

(3) The people's veto of legislation provisions of Article IV, Part Third, Section 17; and

(4) The direct initiative of legislation provisions of Article IV, Part Third, Section 18. [PL 1993, c. 351, §1 (NEW).]

F. Legislation, even though enacted by a 2/3 vote of each House of the Legislature, may not be construed to override the funding requirements of the Constitution of Maine, Article IX, Section 21, unless the legislation contains specific language indicating that it is the intent of the Legislature to create an exception to the Constitution of Maine. [PL 1993, c. 351, §1 (NEW).]

[PL 1993, c. 351, §1 (NEW).]

4. Local units of government not bound. A local unit of government is not bound by any mandate unless funded or exempted from state funding in accordance with this section and the Constitution of Maine, Article IX, Section 21.

[PL 1993, c. 351, §1 (NEW).]

5. Appropriation and payment of state funds. The State must appropriate, allocate or otherwise designate for payment in each state fiscal year a sum sufficient to meet at least 90% of the cost of each mandate imposed on local units of government.

A. The state agency to which state funds are appropriated, allocated or otherwise designated for payment to fund a mandate, referred to in this subsection as the "agency," shall pay to each local unit of government in each state fiscal year the required state mandate funds. The agency need not pay to local units of government the entire amount at the beginning of each fiscal year. However, the agency must make payments to local units of government in accordance with the mandate payment distribution schedule. [PL 1993, c. 351, §1 (NEW).]

B. A mandate payment distribution schedule describes the number of annual payments, the time of each payment and the amount of each payment to be made during the state fiscal year to ensure that the State pays local units of government the required state mandate funds prior to the local units of government having to make expenditures required by a mandate. [PL 1993, c. 351, §1 (NEW).]

C. A mandate payment distribution schedule must be established for each mandate that requires state funding under this section. The agency shall establish a mandate payment distribution schedule for a mandate by consulting with the affected local unit or units of government or with a representative sample of affected local units of government. If necessary, different mandate payment distribution schedules may be established for a single mandate. [PL 1993, c. 351, §1 (NEW).]

D. Following public hearing and in accordance with the Maine Administrative Procedure Act, the State Controller shall adopt rules necessary to implement this subsection. At a minimum, those rules must include a process for establishing mandate payment distribution schedules for distribution of payments under this subsection, including the provision of public notice and an opportunity for comment on the schedules by local units of government and other affected persons. [PL 1993, c. 351, §1 (NEW).]

E. [PL 2015, c. 44, §8 (RP).]

F. In accordance with the Maine Administrative Procedure Act, a local unit of government may appeal the number, amount and timing of payments under this section to the agency making payments. Decisions on appeals from the number, amount and timing of payments awarded under the schedule constitute final agency action. [PL 1993, c. 351, §1 (NEW).]

[PL 2015, c. 44, §8 (AMD).]

6. Collection of data; report. A state agency making payments to local units of government under this section shall submit a report to the Department of Administrative and Financial Services by September 1st each year. The report must identify specific mandates administered by the agency during the previous fiscal year, describe the payment schedule developed by the agency for each mandate and contain any other information requested by the department. The Department of Administrative and Financial Services shall compile that information and shall issue a report annually not later than January 15th to the Governor and the Legislature summarizing state agency activities under this section.

[PL 1993, c. 351, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 351, §1 (NEW). PL 2015, c. 44, §8 (AMD).

SUBCHAPTER 3

MUNICIPAL DEBT

§5701. Debt liability

The personal property of the residents and the real estate within the boundaries of a municipality, village corporation or other quasi-municipal corporation may be taken to pay any debt due from the body corporate. The owner of property taken under this section may recover from the municipality or quasi-municipal corporation under Title 14, section 4953. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5702. Limitation

No municipality may incur debt which would cause its total debt outstanding at any time, exclusive of debt incurred for school purposes, for storm or sanitary sewer purposes, for energy facility purposes or for municipal airport purposes to exceed 7 1/2% of its last full state valuation, or any lower percentage or amount that a municipality may set. A municipality may incur debt for school purposes to an amount outstanding at any time not exceeding 10% of its last full state valuation, or any lower percentage or amount that a municipality may set, for storm or sanitary sewer purposes to an amount outstanding at any time not exceeding 7 1/2% of its last full state valuation, or any lower percentage or amount that a municipality may set, and for municipal airport and special district purposes to an amount

outstanding at any time not exceeding 3% of its last full state valuation, or any lower percentage or amount that a municipality may set; provided, however, that in no event may any municipality incur debt which would cause its total debt outstanding at any time to exceed 15% of its last full state valuation, or any lower percentage or amount that a municipality may set. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 213 (AMD).]

For the purposes of this section, full state valuation shall mean the state valuation most recently certified by the State Tax Assessor pursuant to Title 36, section 381, adjusted to 100%. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

If a particular loan is or has been incurred by a municipality for school, storm or sanitary sewer, municipal airport, water and other purposes, or any combination thereof, the treasurer of the municipality shall make and maintain records showing the proportion, if any, of such loan incurred for school purposes, for storm or sanitary sewer purposes, for municipal airport purposes, for water purposes and for other purposes and the same proportions shall be applied to each maturity of such loan. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 213 (AMD).

§5703. Exclusion

1. Limitations on municipal debt. The limitations on municipal debt in section 5702 shall not be construed as applying to any funds received in trust by any municipality, any loan which has been funded or refunded, notes issued in anticipation of federal or state aid or revenue sharing money, tax anticipation loans, notes maturing in the current municipal year, indebtedness of entities other than municipalities, indebtedness of any municipality to the Maine School Building Authority, debt issued under chapter 213 and Title 10, chapter 110, subchapter IV, obligations payable from revenues of the current municipal year or from other revenues previously appropriated by or committed to the municipality, and the state reimbursable portion of school debt. The limitations on municipal debt set forth in section 5702 do not apply to obligations incurred by one or more municipalities pursuant to Title 38, section 1304-B, with respect to solid waste facilities, which obligations are regulated in the manner set forth in Title 38, section 1304-B.
[PL 1995, c. 462, Pt. A, §54 (AMD).]

2. State reimbursement. For the purpose of this section, the state reimbursable portion of school debt with respect to any municipality shall be the amount determined by:

A. Multiplying the outstanding amount of each issue of debt incurred for school purposes by the municipality in connection with a project which qualifies for state school construction aid and the percentage of the capital outlay costs of such project which was applicable to determine the amount of state school construction aid.

(1) The certificate of the Commissioner of Education that a project qualifies for state school construction aid and as to the percentage of that aid to which a municipality was entitled shall be conclusive evidence of the facts stated therein; or [PL 1989, c. 381 (NEW); PL 1989, c. 700, Pt. A, §129 (AMD).]

B. For school construction projects approved by the State Board of Education after July 1, 1985, by multiplying the outstanding amount of each issue of debt incurred for school purposes by the municipality in connection with a project that qualifies for state school construction subsidy under Title 20-A and the state share percentage of operating costs for that municipality as defined in Title

20-A, section 15672, subsection 31, for the year in which the project received concept approval from the State Board of Education.

(1) The certificate of the Commissioner of Education that a project qualifies for state school construction aid and as to the state share percentage of operating costs for that municipality as defined in Title 20-A, section 15672, subsection 31, for the year in which the project received concept approval is conclusive evidence of the facts stated therein. [PL 2005, c. 683, Pt. B, §24 (AMD).]

[PL 2005, c. 683, Pt. B, §24 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 381 (RPR). PL 1989, c. 700, §A129 (AMD). PL 1995, c. 462, §A54 (AMD). PL 2005, c. 683, §B24 (AMD).

§5704. Reporting by special districts

Each special district in the State, whether or not its boundaries are coterminous with the boundaries of a municipality, including districts established for the purposes of providing water, sewer, electric, educational, health, transportation, solid waste management, parking or recreation services, or any other public purpose, shall file an annual report of its total outstanding debt. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Content. These reports shall include debts by:

A. Amount; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Purpose; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Creditors; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Date incurred; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Interest rate; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Amortization period; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. Amount of annual principal payments and annual interest payments; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Assessments and contributions received from municipalities in the district to service the debts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Filing; public records. The reports shall be filed within 45 days of the end date of each fiscal year. The reports shall be filed with the Maine Municipal Bond Bank upon forms provided by it. Information reported under this section is a public record.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5705. Refinancing of the United States Farmers Home Administration loans

For the period beginning January 1, 1988, and ending December 31, 1989, the municipal officers of any municipality or plantation may refinance any debt owed to the United States Farmers Home Administration without the approval of the municipality's or plantation's legislative body as long as the refinancing will result in a net savings to the municipality or plantation. [PL 1989, c. 12 (NEW); PL 1989, c. 878, Pt. C, §47 (AMD).]

SECTION HISTORY

PL 1989, c. 12 (NEW). PL 1989, c. 878, §C47 (AMD).

SUBCHAPTER 3-A

MUNICIPAL INVESTMENTS

ARTICLE 1

GENERAL INVESTMENTS

§5706. Deposit or investment of funds

As directed by the municipal officers, the treasurer shall invest all municipal funds, including reserve funds and trust funds, to the extent that the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Financial institutions. In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the successors to these federal agencies.

A. Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time must be secured by the pledge of certain securities as collateral, or fully covered by insurance.

(1) The collateral must be in an amount equal to the excess deposit. The municipal officers shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(2) The collateral may consist only of securities in which municipalities may invest, as provided in article 2. The securities must be held in a depository institution approved by the municipal officers and pledged to indemnify the municipalities against any loss. The depository institution shall notify the municipal officers of the pledging when the securities are deposited; [PL 2015, c. 44, §9 (AMD).]

[PL 2015, c. 44, §9 (AMD).]

2. Repurchase agreements. In repurchase agreements with respect to obligations of the United States Government, as defined in section 5712, subsection 1, as long as the market value of the underlying obligation is equal to or greater than the amount of the municipality's investment and either the municipality's security entitlement with respect to the underlying obligation is created pursuant to the provisions of Title 11, Article 8-A and other applicable law or the municipality's security interest is perfected pursuant to the provisions of Title 11, Article 9-A and other applicable law, except that, if the term of the repurchase agreement is not in excess of 96 hours, the municipality's security interest with respect to the underlying obligation need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction;
[PL 1999, c. 699, Pt. D, §19 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

3. Mutual funds. In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, provided that the investments of the fund are limited to bonds and other direct obligations of the United States Government, as defined in section 5712, subsection 1 or repurchase agreements secured by bonds and other direct obligations of the United States Government, as defined in section 5712, subsection 1;
[PL 1997, c. 367, §1 (AMD).]

3-A. Mutual funds for trusts governed by the United States Internal Revenue Code, Section 501(c)(3). In the case of a trust fund that is governed by the United States Internal Revenue Code, Section 501 (c) (3) (1997), in the shares of any investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, as long as:

A. The investment is approved by the municipal officers at a public meeting; and [PL 2003, c. 8, §1 (AMD).]

B. No more than 50% of the assets of the trust are invested in mutual funds under this subsection; or [PL 2003, c. 8, §1 (AMD).]

C. [PL 2003, c. 8, §1 (RP).]
[PL 2003, c. 8, §1 (AMD).]

4. Safekeeping and investment management agreements. The municipal officers may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping of the reserve funds, as defined in section 5801, or trust funds, as defined by section 5653, of the municipality. Services must consist of the safekeeping of the funds, collection of interest and dividends, and any other fiscal service that is normally covered in a safekeeping agreement. Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the municipality under this section is governed by the rule of prudence, according to Title 18-B, sections 802 to 807 and chapter 9. The contracting parties shall give assurance of proper safeguards that are usual to these contracts and shall furnish insurance protection satisfactory to both parties.
[PL 2003, c. 618, Pt. B, §17 (AMD); PL 2003, c. 618, Pt. B, §20 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 206, §1 (AMD). PL 1995, c. 664, §2 (AMD). PL 1997, c. 367, §§1,2 (AMD). PL 1997, c. 429, §C35 (AMD). PL 1999, c. 699, §D19 (AMD). PL 1999, c.

699, §D30 (AFF). PL 2003, c. 8, §1 (AMD). PL 2003, c. 618, §B17 (AMD). PL 2003, c. 618, §B20 (AFF). PL 2013, c. 16, §10 (REV). PL 2015, c. 44, §9 (AMD).

ARTICLE 2

INVESTMENTS IN SECURITIES

§5711. Investments in general

Municipalities may hereafter invest their funds in securities in accordance with this article, subject to the conditions and limitations set forth in this article or the terms of the instrument, order or article creating the fund being invested. Limitations set forth in this article concerning the maximum amount which may be invested in a security or type of security shall apply only to an investment in that security or type of security which exceeds $20,000. Investments made under this article shall be made by the treasurer upon direction of the municipal officers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5712. Government unit bonds

Municipalities may invest in: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. United States and instrumentalities. The bonds and other direct obligations of the United States, or the bonds and other direct obligations or participation certificates issued by any agency, association, authority or instrumentality created by the United States Congress or any executive order; [PL 1995, c. 206, §1 (AMD).]

2. States. The bonds and other direct obligations issued or guaranteed by any state or by any instrumentality or agency of any state, or by any political subdivision of any state, provided that the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions;
[PL 1995, c. 206, §1 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

3. Maine. The bonds and other direct obligations issued or guaranteed by this State, or issued by any instrumentality or agency of this State, or any political subdivision of the State that is not in default on any of its outstanding funded obligations;
[PL 1995, c. 206, §1 (AMD).]

4. Canada. The bonds and other direct obligations issued or guaranteed by the Dominion of Canada, or issued or guaranteed by any province, or political subdivision of a province, provided that the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions and are payable in United States funds; and
[PL 1995, c. 206, §1 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

5. Short-term obligations. Prime bankers' acceptances and prime commercial paper.
[PL 1995, c. 206, §1 (NEW).]

Investments made pursuant to this section are limited to direct obligations of the issuer in which the municipality directly owns the underlying security. Obligations created from, or whose value depends on or is derived from the value of one or more underlying assets or indexes of asset values in

which the municipality owns no direct interest do not qualify as investments under this section. [PL 1995, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 206, §1 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF).

§5713. Corporate securities

Municipalities may invest in: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Corporate bonds. The bonds and other obligations of any United States or Canadian corporation, provided that the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions and are payable in United States funds. Not more than 2% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in the securities of any one such corporation;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

2. Maine corporate bonds. The bonds and other obligations of any Maine corporation, actually conducting in this State the business for which that corporation was created, which, for a period of 3 successive fiscal years or for a period of 3 years immediately preceding the investment, has earned or received an average net income of not less than 2 times the interest on the obligations in question and all prior liens or, in the case of water companies subject to the jurisdiction of the Public Utilities Commission, an average net income of not less than 1 1/2 times the interest on the obligations in question and all prior liens. Not more than 20% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in these securities of Maine corporations and not more than 2% of that fund in the securities of any single corporation; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Maine corporate stocks. Maine corporate stocks which have the following characteristics.

A. The stock of any Maine corporation, other than stock of a financial institution, actually conducting in this State the business for which that corporation was created, provided that the corporation has, for a period of 3 years immediately preceding the investment, earned and received an average net income after taxes equivalent to at least 6% upon the entire outstanding issue of the stock in question. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Not more than 10% of the deposits of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested under this section in stocks of Maine corporations and not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be so invested in the stock of any single corporation. The fund shall be invested in no more than 20% of the capital stock of any corporation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF).

§5714. Financial institution stock and other obligations

1. Municipalities may invest in:

A. The debentures of any financial institution authorized to do business within this State, incorporated under the laws of this State or the United States and of any financial institution holding company, provided that the holding company is registered under the United States Bank Holding Company Act of 1956, as amended, or the National Housing Act, Section 408, as amended; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The capital stock, preferred stock, debentures and acceptances of any insured bank not having an office in this State which has total capital and reserves of at least $50,000,000 and of any bank holding company whose subsidiary banks have total capital and reserves of at least $50,000,000, provided that the holding company is registered under the United States Bank Holding Company Act of 1956; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Capital notes or debentures issued by any municipalities chartered under the laws of any state, or of the United States, or of the Commonwealth of Puerto Rico, notwithstanding the fact that these notes or debentures may be subordinate to the claims of depositors or other creditors of the issuing institution. Not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be so invested; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development or the Inter-American Development Bank or the African Development Bank. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Limitations. A municipality shall not acquire or hold stock and obligations described in subsection 1 in excess of 30% of the total assets of the reserve fund, permanent trust fund or other permanent fund being invested; nor shall it acquire or hold stock and obligations of any one bank or holding company not operating in this State in excess of 5% of the total assets of the reserve fund, permanent trust fund or other permanent fund being invested; nor shall any such fund be invested in that stock in excess of 10% of the capital stock of any one bank or holding company.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5715. Other stock investments

Municipalities may invest in: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Preferred stock of public utilities. The preferred stock of any public corporation if all of the publicly issued bonds of the corporation qualify as legal investments under section 5713, subsection 1

or 2. Not more than 10% of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in preferred stocks of public utilities, and not more than 1% of any such fund may be invested in the preferred stocks of any one corporation;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Bonds of nonprofit organizations. The bonds or other interest-bearing obligations of any religious, charitable, educational or fraternal association or corporation. Not more than 10% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in securities coming within the coverage of this subsection, and not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in securities of any one such association or corporation;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Small business investment companies. The stock of small business investment companies licensed under the United States Small Business Investment Act of 1958, as amended, and commercially domiciled in Maine and doing business primarily in Maine. Not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in the stock of small business investment companies and any such fund shall not be invested in more than 10% of the stock of any one small business investment company; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Maine Capital Corporation. The stock of the Maine Capital Corporation, established under Title 10, chapter 108, in an amount not to exceed 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5716. Other prudent securities

Municipalities may invest in such securities as the municipal officers consider to be sound, prudent investments, the making of which would not otherwise be legal but for this section. Not more than 10% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in securities within the coverage of this section and investments in the stock of the State's financial institutions shall not be considered within this section. This section does not limit the authority of municipalities to invest in securities specifically regulated by this article; rather, this section gives additional authority to invest 10% in any type of prudent security. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5717. Retention of unauthorized securities

Municipalities may acquire and hold securities not authorized by law, but which have been acquired in settlements, reorganizations, recapitalizations, mergers, consolidations, by receipt of stock dividends or the exercise of rights applicable to securities held by the municipalities and may continue to hold

these securities at the discretion of the municipal officers. Municipalities may continue to hold at the discretion of the municipal officers securities under authorization of law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5718. Standard of prudence

All investments made under this subchapter must be made with the judgment and care that persons of prudence, discretion and intelligence, under circumstances then prevailing, exercise in the management of their own affairs, not for speculation but for investment, considering: [PL 1995, c. 206, §2 (NEW).]

1. Safety. The safety of principal and preservation of capital in the overall portfolio;
[PL 1995, c. 206, §2 (NEW).]

2. Maintenance of liquidity. Maintenance of sufficient liquidity to meet all operating and other cash requirements with which a fund is charged that are reasonably anticipated; and
[PL 1995, c. 206, §2 (NEW).]

3. Income. The income to be derived throughout budgetary and economic cycles, taking into account prudent investment risk constraints and the cash-flow characteristics of the portfolio.
[PL 1995, c. 206, §2 (NEW).]

This standard must be applied to the overall investment portfolio of the municipality and not to individual items within a diversified portfolio. [PL 1995, c. 206, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 206, §2 (NEW).

§5719. Limitations on investments

A municipality's authority to invest municipal funds is limited to investments permitted under this subchapter and a municipality has no authority under home rule authority or otherwise to make any investments other than those permitted under this subchapter. [PL 1995, c. 206, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 206, §2 (NEW).

SUBCHAPTER 4

EXPENDITURES

§5721. General authority

A municipality may raise or appropriate money for any public purpose, including, but not limited to, the purposes specified in sections 5722 to 5728. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5721-A. Limitation on municipal property tax levy

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

A. "Average personal income growth" has the same meaning as in Title 5, section 1531, subsection 2. [PL 2015, c. 267, Pt. L, §13 (AMD).]

B. [PL 2015, c. 267, Pt. L, §14 (RP).]

C. "Property growth factor" means the percentage equivalent to a fraction established by a municipality, whose denominator is the total valuation of the municipality, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in the municipality that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property. A municipality identified as having a personal property factor that exceeds 5%, as determined pursuant to Title 36, section 694, subsection 2, paragraph B, may calculate its property growth factor by including in the numerator and the denominator the value of personal and otherwise qualifying property introduced into the municipality notwithstanding the exempt status of that property pursuant to Title 36, chapter 105, subchapter 4-C. [PL 2009, c. 545, §1 (AMD).]

D. "Property tax levy" means the total annual municipal appropriations, excluding assessments properly issued by a county of which the municipality is a member and amounts governed by and appropriated in accordance with Title 20-A, chapter 606-B, and amounts appropriated to pay assessments properly issued by a school administrative unit or tuition for students or amounts attributable to a tax increment financing district agreement or similar special tax district, reduced by all resources available to fund those appropriations other than the property tax. [PL 2005, c. 12, Pt. WW, §11 (AMD).]

E. [PL 2015, c. 267, Pt. L, §15 (RP).]

[PL 2015, c. 267, Pt. L, §§13-15 (AMD).]

2. Property tax levy limit. Except as otherwise provided in this section, a municipality may not in any year adopt a property tax levy that exceeds the property tax levy limit established in this subsection.

A. The property tax levy limit for the first fiscal year for which this section is effective is the property tax levy for the municipality for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

B. The property tax levy limit for subsequent fiscal years is the property tax levy limit for the preceding year multiplied by one plus the growth limitation factor pursuant to subsection 3. [PL 2005, c. 621, §12 (AMD).]

C. If a previous year's property tax levy reflects the effect of extraordinary, nonrecurring events, the municipality may submit a written notice to the State Tax Assessor requesting an adjustment in its property tax levy limit. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

[PL 2005, c. 621, §12 (AMD).]

3. Growth limitation factor. The growth limitation factor is the average personal income growth plus the property growth factor.

A. [PL 2015, c. 267, Pt. L, §16 (RP).]

B. [PL 2015, c. 267, Pt. L, §16 (RP).]

[PL 2015, c. 267, Pt. L, §16 (AMD).]

4. Adjustment for new state funding. If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State during the most recently completed calendar year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior calendar year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" refers to state-municipal revenue sharing and does not include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the Local Road Assistance Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If the calculation required by this subsection reveals that the municipality received or will receive a net reduction in funding, the municipality is authorized to adjust its property tax levy limit in an amount equal to the net reduction of funds. For the purpose of determining if there was or will be a net reduction in funding, the municipality may consider only those funds that are net new funds. For purposes of this subsection, with respect to the development of any municipal budget that was finally adopted on or before July 1, 2013, "net reduction in funding" means the amount of funds received by the municipality from the State during the calendar year immediately preceding the most recently completed calendar year less the amount of such funds received in the most recently completed calendar year. For the purposes of this subsection, with respect to the development of a municipal budget that is finally adopted after July 1, 2013, a municipality may calculate net reduction in funding as the amount of funds received by the municipality from the State during the municipal fiscal year immediately preceding the fiscal year for which the budget is being developed less the amount of such funds that will be received during the fiscal year for which the budget is being prepared, as reasonably calculated on the basis of all available information. If the calculation required by this subsection yields a positive value, that value may be added to the municipality's property tax levy limit. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

[PL 2013, c. 368, Pt. G, §1 (AMD).]

5. Exceeding property tax levy limit; extraordinary circumstances. The property tax levy limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the municipal legislative body, including:

(1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;

(2) Unfunded or underfunded state or federal mandates;

(3) Citizens' initiatives or other referenda;

(4) Court orders or decrees; or

(5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

B. The property tax levy limit may be exceeded only as provided in subsection 7. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

C. Exceeding the property tax levy limit established in subsection 2 permits the property tax levy to exceed the property tax levy limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the property tax levy limit for future years. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

6. Increase in property tax levy limit. The property tax levy limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

7. Process for exceeding property tax levy limit. A municipality may exceed or increase the property tax levy limit only by the following means.

A. If the municipal budget is adopted by town meeting or by referendum, the property tax levy limit may be exceeded by the same process that applies to adoption of the municipal budget except that the vote must be by written ballot on a separate article that specifically identifies the intent to exceed the property tax levy limit. [PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded only by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the intent to exceed the property tax levy limit. Unless a municipal charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the question of exceeding the property tax levy limit is submitted to the municipal officers within 30 days of the council's vote pursuant to this paragraph, the article voted on by the council must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be held within 45 days of the submission of the petition. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters and absentee ballots must be prepared and made available at least 14 days prior to the date of the referendum. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records. [PL 2005, c. 12, Pt. WW, §12 (AMD).]

[PL 2005, c. 12, Pt. WW, §12 (AMD).]

8. Treatment of surplus; reserves. Any property tax revenues collected by a municipality in any fiscal year in excess of its property tax levy limit, as determined by a final audited accounting, must be transferred to a property tax relief fund, which each municipality must establish, and used to reduce property tax levies in subsequent fiscal years. Nothing in this subsection limits the ability of a municipality to maintain adequate reserves pursuant to section 5801.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

9. Fractional divisions. A municipality may, consistent with Title 36, section 710, exceed its property tax levy limit in such reasonable amount as necessary to avoid fractional divisions.

[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

10. Enforcement. If a municipality adopts a property tax levy in violation of this section, the State Tax Assessor may require the municipality to adjust its property tax levy downward in an amount equal to the illegal property tax levy and impose such other penalties as the Legislature may provide.
[PL 2005, c. 2, Pt. C, §1 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

SECTION HISTORY

PL 2005, c. 2, §C1 (NEW). PL 2005, c. 2, §§C3-5 (AFF). PL 2005, c. 12, §§WW11,12 (AMD). PL 2005, c. 12, §§WW15, 16 (AFF). PL 2005, c. 515, §1 (AMD). PL 2005, c. 621, §§9-13 (AMD). PL 2005, c. 683, §I2 (AMD). PL 2007, c. 662, §3 (AMD). PL 2009, c. 545, §1 (AMD). PL 2011, c. 652, §12 (AMD). PL 2011, c. 652, §14 (AFF). PL 2013, c. 368, Pt. G, §1 (AMD). PL 2015, c. 267, Pt. L, §§13-16 (AMD).

§5722. Operating expenses

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Operation. Provide for the operation of its municipal government;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Pensions. Establish a contributory pension system for its officials and employees, or participate in an existing system;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Fire and police protection. Provide for fire and police protection;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Volunteer fire department. Support an incorporated volunteer fire department, as long as the purposes for which an appropriation is made to a volunteer fire department are itemized;

A. [PL 2017, c. 33, §1 (RP).]
[PL 2017, c. 33, §1 (AMD).]

5. Insurance for use of vehicles. Insure its officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the municipality while being used for municipal business;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Insurance for performance of duties. Insure its officers, officials and employees against any personal liability which they may incur out of and in the course of their acting by, for or on behalf of the municipality while performing their duties as public officers, officials and employees;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Revaluation. Provide for the revaluation of taxable property.

A. Any revaluation is under the jurisdiction of the municipal assessors whose judgment, as opposed to that of any hired appraiser, is final; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737,

Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Municipal services. Provide for a supply of water, gas and electricity for municipal use for a period of years or for an energy facility, as defined in section 5401, subsection 3;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Advisory organizations. Obtain the services of municipal advisory organizations. The Legislature recognizes the Maine Municipal Association as a nonprofit advisory organization and declares it to be an instrumentality of its member municipal and quasi-municipal corporations with its assets upon its dissolution to be delivered to the Treasurer of State to be held in custody for the municipalities of the State. A municipal advisory organization may receive federal grants or contributions for its activities with respect to the solution of local problems; and

[PL 2003, c. 75, §2 (AMD).]

10. Water system. Provide for the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance and operation of a water or sewer system or part of such a system, within or outside, or partly within and partly outside, the corporate limits of the municipality.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 75, §2 (AMD). PL 2017, c. 33, §1 (AMD).

§5723. Public works

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Parks and construction projects. Provide for public buildings, ways, bridges, parks, parking places, sewers and drains;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Dumps. Provide for public dumps either within or outside its boundaries;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Cemeteries. Provide for public cemeteries; maintain private cemeteries established before 1880; care for graves of veterans and maintain fences around cemeteries in which veterans are buried;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Flood control. Provide for projects which have been approved by the Governor for improving navigation or preventing property damage by erosion or flood;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Fuel yard. Provide a fuel yard for the purpose of selling fuel to its residents without financial profit to itself; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Water or sewer districts. Provide financial assistance to a water or sewer district which is a quasi-municipal corporation, within or outside, or partly within or outside, the corporate limits of the municipality to the extent that the assisted district serves the municipality providing assistance.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5724. Schools and libraries

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Public schools and libraries. Provide for public schools and libraries;
[PL 1993, c. 494, §4 (AMD).]

2. School activities. Provide for school bands and other organized activities conducted under the supervision of the school committee;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Physical education. Provide for physical fitness programs in the schools;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Construction and maintenance. Provide for the construction, repairs and maintenance of buildings and equipment for educational institutions with which a municipality has a contract as provided in Title 20-A, section 2703;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Transportation. Provide for the transportation of school children to and from schools other than public schools, except those schools that are operated for profit in whole or in part;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Textbooks. Provide for the purchase of those secular textbooks which have been approved by the school committee or board of directors for use in public schools in the municipality or district and to loan those textbooks to pupils or to the parents of pupils attending nonpublic elementary and secondary schools. The loans shall be based upon individual requests submitted by the nonpublic school pupils or parents. The requests shall be submitted to the school committee or board of directors of the administrative district in which the student resides. The request for the loan of textbooks shall, for administrative convenience, be submitted by the nonpublic school student or parent to the nonpublic school which shall prepare and submit collective summaries of the individual requests to the school committee or board of directors. As used in this section, "textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school the pupil regularly attends;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Physician, nursing, dental and optometric services. Provide physician, nursing, dental and optometric services to pupils attending nonpublic elementary and secondary schools within a district or municipality. These services may be provided in the school attended by the nonpublic school pupil receiving the services;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Tests and scoring services. Provide for the use by pupils attending nonpublic elementary and secondary schools within the municipality or a district the standardized tests and scoring services which are in use in the public schools serving that municipality or district; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Advisory organizations. Obtain the services of educational advisory organizations. The Legislature recognizes the Maine School Management Association and the Maine School Boards Association as nonprofit advisory organizations and declares these associations to be instrumentalities of their member school administrative units, municipal and quasi-municipal corporations with their assets upon their dissolution to be delivered to the Treasurer of State to be held in custody for the municipalities of the State. An educational advisory organization may receive federal grants or contributions for their activities with respect to the solution of local problems.

A municipality may provide health or remedial services to nonpublic school pupils as authorized by this section only if those services are available to pupils attending the public school serving the municipality.

Health and remedial services and instructional materials and equipment provided for the benefit of nonpublic school pupils under this section and the admission of pupils to the nonpublic schools must be provided without distinction as to race, creed, color, the national origin of the pupils or of their teachers. No instructional materials or instructional equipment may be loaned to pupils in nonpublic schools or their parents unless similar instructional material or instructional equipment is available for pupils in a public school served by a municipality.
[PL 2003, c. 75, §3 (AMD).]

10. Municipal education foundations. A municipal education foundation is established with the assistance of the Department of Administrative and Financial Services and must contain the following provisions.

A. The endowment of a municipal education foundation is funded by contributions by citizens, estates, municipalities and bond money if the foundation meets standards pursuant to section 5652, subsection 2. [PL 2011, c. 655, Pt. DD, §12 (AMD); PL 2011, c. 655, Pt. DD, §24 (AFF).]

B. Trustees of a municipal education foundation must be citizens of the municipality and contain at least one member who is a teacher or administrator in the municipality's education system to be a liaison between the school system and the municipal education foundation. [PL 2007, c. 405, §3 (NEW).]

[PL 2011, c. 655, Pt. DD, §12 (AMD); PL 2011, c. 655, Pt. DD, §24 (AFF).]

A municipality may not provide services, materials or equipment for use in religious courses, devotional exercises, religious training or any other religious activity. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 494, §4 (AMD). PL 2003, c. 75, §3 (AMD). PL 2007, c. 405, §3 (AMD). PL 2011, c. 655, Pt. DD, §12 (AMD). PL 2011, c. 655, Pt. DD, §24 (AFF).

§5725. Health and welfare

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Poor. Support the poor;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Hospital. Construct, maintain, operate and support a hospital serving its residents;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Community health facility. Construct, maintain, operate and support a community health facility which may be used in any manner that will improve health services in the community, including the leasing of space at fair market rates to physicians and other medical personnel;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Public health. Employ a public health nurse and conduct a public health program;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Blood service. Support a blood service program;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Dental hygienist. Employ a dental hygienist;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Physician. Subsidize physicians to induce them to settle in the municipality;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Pest control. Provide for the extermination and control of insect pests;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Ambulance. Provide for public ambulances and garages for them, or support an ambulance service serving its residents;
[PL 1999, c. 570, §4 (AMD).]

10. Veteran rehabilitation. Provide for a local program with or without state coordination for rehabilitating veterans honorably discharged from the Armed Forces of the United States;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Dutch elm disease. Determine the presence of the Dutch elm disease and carry out measures for the prevention or control of that disease on public or private grounds;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Youth commission. Provide for a local youth commission; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

13. Anti-poverty community action program. Assist and contribute to a community action program organized under the Federal Anti-Poverty Program.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 570, §4 (AMD).

§5726. Development

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Board of trade. Support and guarantee obligations of a chamber of commerce or board of trade or a local development corporation, or a chamber of commerce and a local development corporation, or a board of trade and a local development corporation;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Advertising. Advertise its resources and attractions or those of the State;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Real estate. Purchase real estate and personal property from the Federal Government for municipal purposes;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Athletic facilities and recreation. Provide real estate and personal property for recreational purposes and supporting a recreational program or for building, maintaining and operating an athletic facility;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Fish. Propagate and protect fish in public waters located wholly or partially within its boundaries.

A. The money appropriated shall be spent by the municipal officers or a person appointed by them; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The person authorized to spend the money shall submit a written report of the expenditure to the municipal legislative body within one year of the date of appropriation; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Historical society. Assist a local historical society;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. History. Write and publish its history;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Conventions. Assist conventions;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Lands. Provide for and acquire open areas, including marshlands, swamps or wetlands;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Mass bus transportation. Aid private companies or public agencies furnishing mass bus transportation services within the municipality;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Relocation assistance. Provide funds for relocation assistance services and payments to individuals, families and businesses displaced as a result of the acquisition of real property for a public purpose;
[PL 2001, c. 78, §1 (AMD).]

12. District Court. Construct, equip and furnish a district courthouse within the municipality. The municipality may negotiate a lease with the Chief Judge of the District Court for the use of such a courthouse;
[PL 2001, c. 78, §1 (AMD).]

13. Elderly housing. Provide municipally owned rental housing for the elderly;
[PL 2013, c. 206, §1 (AMD).]

14. Affordable housing. Facilitate affordable housing; and
[PL 2013, c. 206, §2 (AMD).]

15. Job creation and retention. Establish revolving loan fund programs to assist in job creation and retention for local for-profit and nonprofit enterprises if approved by a municipal referendum election pursuant to sections 2528, 2529 and 2532, even if the municipality or plantation has not accepted the provisions of section 2528.
[PL 2013, c. 206, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 78, §§1,2 (AMD). PL 2013, c. 206, §§1-3 (AMD).

§5727. Celebrations and commemorations

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Anniversary. Celebrate any anniversary of its settlement or incorporation and publish the proceedings of the celebration;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Holidays. Observe Memorial Day, Veterans Day and any other day set apart for commemoration;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Christmas. Decorate for Christmas;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Music. Support an organization to provide music for municipal functions and public celebrations; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Memorials for veterans. Provide for monuments and memorials, and real estate suitable for their erection, to honor the veterans of the Armed Forces of the United States who sacrificed their lives in defense of their country.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5728. General duties and operations

A municipality may raise or appropriate money to: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Duties. Perform any of the duties required of it by law; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Authorized by law. Provide for any operations authorized by law which, by their nature, require the expenditure of money.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5729. Federal and state grants

A municipality's acceptance of grants is governed by this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Federal. Municipalities may apply for, accept and appropriate federal grants for any purpose for which federal grants are made available to municipalities either directly or through the State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. State. Municipalities may apply for, accept and appropriate state grants for any purpose for which state grants are made available to municipalities either directly or through a state agency.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5730. Historic and scenic preservation

Pursuant to the Constitution of Maine, Article IX, Section 8, Subsection 5, a municipality may raise or appropriate money to reimburse taxpayers for a portion of taxes paid under Title 36, Part 2 on real

property if the property owner agrees to maintain the property in accordance with criteria that are adopted by ordinance by the governing legislative body of the municipality and that provide for maintaining the historic integrity of important structures or providing a scenic view. The Maine Historic Preservation Commission shall provide guidance, if requested by a municipality, in implementing this section. [PL 1999, c. 626, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 626, §1 (NEW).

SUBCHAPTER 5

TAX BASE SHARING

§5751. Purpose

It is the purpose of this subchapter to increase the likelihood of orderly development and to provide an incentive for coordinated multi-community economic development by permitting 2 or more communities to share their tax base. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5752. Tax base sharing agreement

1. Agreement. Any 2 or more municipalities may, by a vote of their legislative bodies, enter into an agreement to share all or a specific part of the commercial, industrial or residential assessed valuation located within their respective communities. Municipalities that vote to enter into an agreement pursuant to this section are not required to have borders that are contiguous.
[PL 1997, c. 663, §1 (AMD).]

2. Specifications. Any such agreement must specify:

A. A duration which must be at least 5 years; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A description of the tax base that is to be shared, expressed in terms of type of property or location of property; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The formula for sharing the property taxes generated through taxation of the valuation that is to be shared; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Any other necessary and proper matters. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Administration. The shared valuation must be assessed in the municipality in which the property is located. It must be taxed at the rate applicable in that municipality. The tax so assessed must be collected by the municipality in which the property is located and the share of that tax, as

specified in the tax base sharing agreement, must be remitted within 15 days after collection or within such other period of time as the parties to the tax base sharing agreement specify to the other municipality or municipalities on the basis of the terms of the agreement to which they are parties. The municipality in which the property is located may be authorized by the tax base sharing agreement to make payments due to the other municipality or municipalities that are parties to the agreement to another party or entity. Payments to another party or entity must be for purposes that have a general public benefit.
[PL 1999, c. 550, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 663, §1 (AMD). PL 1999, c. 550, §1 (AMD).

§5753. Filing of agreement

Before becoming effective, any agreement made under this subchapter must be filed with the clerk of each municipality and with the Secretary of State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 6

BORROWING

§5771. Revenue anticipation notes; fiscal year

A municipality by vote of its municipal officers may in any municipal year borrow money temporarily and issue notes in anticipation of taxes, and state and federal revenue-sharing money. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Amount. The amount borrowed in anticipation of taxes shall not exceed the total tax levy of the preceding municipal year or of the 2 preceding municipal years if together they do not extend beyond a period of 18 months. The amount borrowed in anticipation of state or federal revenue sharing shall not exceed the amount of revenue-sharing entitlements projected by the paying units of government for the current period of entitlement.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. When paid. The tax anticipation notes must be paid within one month after the end of the municipal year in which they were made, except during a transition to a new municipal year the notes must be paid within 18 months of the first day of the municipal year in which they were made. The notes issued in anticipation of taxes must be paid out of money raised by taxation. The notes issued in anticipation of revenue-sharing money must be paid out of money received as a result of revenue sharing.
[PL 1991, c. 121, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 121, §A5 (AMD).

§5772. General obligation securities

A municipality may issue general obligation securities for funding or refunding all or part of its debt and for any purpose for which it may raise money. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Anticipatory borrowing. The municipal officers authorized to issue securities may borrow money in anticipation of their sale by issuing temporary notes and renewal notes.

A. The total face amount of temporary notes and renewal notes issued under this subsection may not exceed at any one time outstanding the authorized amount of the securities. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The period of anticipatory borrowing under this subsection shall not exceed 3 years and the time within which these securities are to become due shall not be extended by anticipatory borrowing beyond:

(1) The time fixed in the vote authorizing their issue; or

(2) If no term is specified in that vote, beyond the term permitted by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Invalidity in original borrowing. A security authorized and issued for the purpose of funding or refunding a debt is not invalid because of any invalidity in the original borrowing.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2-A. Financial statement required. The treasurer of the municipality shall prepare a signed statement to accompany any question submitted to the electors for ratification of a general obligation of the municipality bond issue. To meet this requirement, the signed statement of the municipal treasurer may be printed on the ballot or it may be printed as a separate document that is made available to voters. The statement must set forth:

A. The total amount of bonds of the municipality outstanding and unpaid, the total amount of bonds of the municipality authorized and unissued and the total amount of bonds of the municipality contemplated to be issued if the enactment submitted to the electors is ratified; [PL 1991, c. 548, Pt. D, §7 (NEW); PL 1991, c. 548, Pt. D, §10 (AFF).]

B. An estimate and explanation of costs involved, including varying interest rates, the estimated cost of interest on the bond amount to be issued, the total cost of principal and interest to be paid at maturity and any other substantive information relating to the debt of the municipality as the treasurer may consider appropriate; and [PL 2019, c. 371, §41 (AMD).]

C. A declaration that the validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the estimate made pursuant to paragraph B. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance. [PL 1991, c. 548, Pt. D, §7 (NEW); PL 1991, c. 548, Pt. D, §10 (AFF).]

[PL 2019, c. 371, §41 (AMD).]

3. Annual installments. Securities may be in serial form payable in annual installments, which need not be equal, the total amount of which shall extinguish the entire issue at maturity. The first such

installment must be payable within 5 years and the last such installment must be payable within 30 years after the date the securities are issued.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Discretion in municipal officers. In the absence of a contrary provision in the vote authorizing the issuance of securities, the discretion to fix the date, maturities, denomination, interest rate, place of payment, form and other details of the securities and of providing for the sale of the securities is deemed to have been delegated to the municipal officers.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Term securities. Term securities may be issued for a period not to exceed 10 years.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Call for redemption. Securities may be issued which are subject to call for redemption with or without premium at the election of the municipality before the date fixed for final payment of the securities, provided:

A. Specific authority to issue callable securities is contained in the vote authorizing their issue; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The securities when issued contain provisions setting forth:

(1) The method by which the option to call may be exercised;

(2) The procedure for payment in the event of call; and

(3) The legal effect of making the call. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Signatures. Securities issued by a municipality shall, in the absence of a contrary provision in a special Act of the Legislature or in the vote authorizing the securities, be signed by the treasurer and countersigned by a majority of the municipal officers.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. At least one manual signature; validity. Securities issued by a municipality and coupons, if any, attached to those securities shall be executed in the name of the municipality by the manual or facsimile signatures of the official or officials who are authorized to execute the securities, but at least one signature on each bond or note must be a manual signature. These securities and coupons, if properly executed by the municipal officers who are in office on the date the securities are actually executed, are valid and binding according to their terms, notwithstanding that before the securities are delivered and paid for, any or all such officers have ceased to hold office.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Interest or dividend exemption from state taxation. Interest or dividends paid on general obligation securities issued under this section are exempt from taxation within the State, whether or not such income is subject to taxation under the United States Internal Revenue Code, as amended.
[PL 1993, c. 680, Pt. A, §27 (RPR).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1987, c. 873, §§2,3 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A50,C8,C10 (AMD). PL 1991, c. 548, §D7 (AMD). PL 1991, c. 548, §D10 (AFF). PL 1993, c. 680, §A27 (AMD). PL 2019, c. 371, §41 (AMD).

§5773. Borrowing in anticipation of federal or state aid

1. Acceptance of aid. The municipal officers of a municipality may contract for and accept an offer or a grant of federal or state aid, or both, for any purpose for which a municipality may raise or expend money.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Borrowing in anticipation. Notwithstanding any provisions in a charter or special Act of the Legislature, but subject to the constitutional limit on indebtedness, any municipality which has contracted for and accepted an offer or a grant of federal or state aid, or both, for a particular project, may by vote of its municipal officers incur indebtedness in anticipation of the receipt of that aid for the particular project by issuing its general obligation notes payable within one year. These notes may be renewed from time to time by the issue of other notes, provided that no notes may be issued or renewed in an amount which at the time of the issuance or renewal exceeds the unpaid amount of the federal or state aid in anticipation of which the notes are issued or renewed.

A. To any extent that the federal or state aid in anticipation of which the notes were issued when received exceeds the amount of the aid remaining to be paid under contract or accepted offer, plus the amount of any outstanding notes issued in anticipation of the aid, it shall be kept in a separate account and used solely for the payment of any outstanding note. [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any municipal charter provision requiring the publication of an ordinance, vote, order or resolution of the municipal officers, the holding of a public hearing on those matters or subjecting an ordinance, vote, order or resolution to a referendum does not apply to any borrowing authorized under this section. [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Funds for educational purposes. The municipal officers of any municipality may borrow in anticipation of any funds or reimbursements that the Legislature has authorized to be paid to municipalities for educational purposes during the municipal year within one month thereafter. The notes must be paid from those funds received for educational purposes from state agencies during the municipal year within one month thereafter.
[PL 1991, c. 121, Pt. A, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 121, §A6 (AMD).

SUBCHAPTER 7

RESERVE FUND

§5801. Establishment

A municipality may establish a reserve fund, consisting of one or more accounts, by appropriating money or by authorizing the transfer of unencumbered surplus funds at the end of any fiscal year for

the following purposes: [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Capital improvement account. Financing the acquisition or reconstruction of a specific, or a type of, capital improvement;
[PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Capital equipment account. Financing the acquisition of a specific item or type of capital equipment;
[PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Credit reserve account. Providing a reserve which may be applied in periods of financial emergency to assist in continuing its normal operation without increasing the tax rate.

A. The annual appropriation for this purpose may not exceed 5% of the current tax commitment. [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. When the municipal legislative body determines that a financial emergency exists, it may order the withdrawal of the necessary amount from the account; and [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Sinking fund account. Paying a funded debt.

A. Any assets remaining in a sinking fund account, other than its own bonds, shall be withdrawn from the account when the debt for the payment of which it was established has been refunded. The legislative body may pledge the assets for payment of the new debt or may order them transferred to another account. [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5802. Trustees

The municipal officers are trustees of the municipal reserve fund. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Fund deposited or invested. They shall deposit or invest the fund according to subchapter III-A.

A. Any interest earned or capital gains realized shall accrue to and become part of the fund. Unless otherwise ordered by the municipal legislative body, interest and capital gains shall be prorated among the various accounts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Purpose of expenditure. An expenditure from any account of the fund may be made only for the specific purpose for which the account was established.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Transfer of balance. The balance of any account of a reserve fund may be transferred to another reserve account or to surplus when the purpose for which it was established has been accomplished or abandoned.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Use of fund for purpose not provided for. Notwithstanding Title 17-A, section 4-A, any municipal official who uses the assets of any account of the reserve fund in any manner or for any purpose other than that provided by the municipality is guilty of a Class C crime and shall be punished by a fine of not more than $2,000 or by imprisonment for not more than 2 years.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 8

ACCOUNTS AND AUDITS

§5821. Uniform accounting system

Each municipality and each quasi-municipal corporation, including, but not limited to, various types of districts or corporations embracing a portion of a municipality, a single municipality or several municipalities not under the jurisdiction of the Public Utilities Commission, shall: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Accounting records. Keep its accounting records in conformity with generally accepted principles of municipal accounting; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Uniform classification. Use a uniform classification for revenue, expenditures and balance sheet accounts.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5822. Investigation of accounting and auditing system

The State Auditor may inquire into the accounting and auditing system of any municipality or any quasi-municipal corporation not under the jurisdiction of the Public Utilities Commission. The officers of that municipality or quasi-municipal corporation shall furnish information pertaining to the system in the form prescribed by the State Auditor. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737,

Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5823. Annual postaudit

Each municipality and quasi-municipal corporation shall have an annual postaudit made of its accounts covering the last complete fiscal year by the Office of the State Auditor or by a certified public accountant elected by ballot or engaged by its officers. The officers shall notify the State Auditor of the name and address of the auditor within 30 days after the auditor is elected or engaged. The postaudit must be conducted according to government auditing standards promulgated by the United States Government Accountability Office. [PL 2015, c. 44, §10 (AMD).]

1. New postaudit. If the officers of a municipality or quasi-municipal corporation are dissatisfied with the postaudit made by a certified public accountant, they may obtain a new postaudit by engaging another certified public accountant in private practice.

If officers of a municipality or quasi-municipal corporation judge that unusual circumstances warrant an audit performed by the Office of the State Auditor, the voters may petition the State Auditor to reperform the audit. The petition must be signed by:

A. At least 10% of the voters of a municipality or quasi-municipal corporation with a population under 10,000; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. At least 1,000 voters in a municipality or quasi-municipal corporation with a population of 10,000 or over. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Upon the filing of a valid petition, the State Auditor shall consider the petition and may order a new postaudit or other examination to be performed by the Office of the State Auditor. The municipality or quasi-municipal corporation shall pay the expense of this postaudit.
[PL 2015, c. 44, §11 (AMD).]

2. Records available to auditor. Whenever a postaudit is being made, all necessary records shall be made available to the auditor.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Report. After the postaudit has been completed, the auditor shall submit a report to the officers of the municipality or quasi-municipal corporation.

A. The report must contain the following items:

(1) A management letter, if applicable;

(2) A letter of transmittal;

(3) The independent auditor's report on the financial statements; and

(4) All financial statements and all other information required by governmental accounting and financial reporting standards. [PL 2003, c. 178, §5 (AMD).]

B. Within 30 days after the postaudit is completed, the auditor shall send to the State Auditor:

(1) A certified copy of the postaudit report, excluding the management letter; and

(2) A certified copy of the audit procedural form prescribed by the State Auditor for governmental audits. [PL 1997, c. 142, §2 (AMD).]

C. Any auditor who fails to file the copies required by paragraph B commits a civil violation for which a forfeiture of not more than $100 may be adjudged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2003, c. 178, §5 (AMD).]

4. Expense. Each municipality and quasi-municipal corporation shall pay the expense of its postaudit.

A. [PL 2015, c. 44, §12 (RP).]

[PL 2015, c. 44, §12 (AMD).]

5. Report kept. The complete report of the postaudit shall be kept in the office of the municipality or quasi-municipal corporation.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 142, §§1,2 (AMD). PL 2003, c. 178, §5 (AMD). PL 2013, c. 16, §10 (REV). PL 2015, c. 44, §§10-12 (AMD).

§5824. Witnesses and records

The State Auditor may subpoena witnesses and records and may examine witnesses under oath in all matters arising under sections 5821 to 5823. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5825. State Auditor's report on financial matters

(REPEALED)

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2015, c. 44, §13 (RP).

§5826. Penalties

A public official who neglects or refuses to perform any duty imposed by sections 5821 to 5823:

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Civil violation. Commits a civil violation for which a forfeiture of not more than $100 may be adjudged; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Forfeiture of office. Forfeits his office.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 225

MAINE MUNICIPAL BOND BANK

SUBCHAPTER 1

GENERAL PROVISIONS

§5901. Title

This chapter shall be known and may be cited as the "Maine Municipal Bond Bank Act." [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5902. Declaration of necessity

1. Declaration of purpose. It is declared to be in the public interest and to be the policy of the State:

A. To foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by counties, municipalities, School Administrative Districts, community school districts, quasi-municipal corporations and other governmental units and to finance their respective public improvements and other municipal purposes within the State from proceeds of bonds, notes, any other form of debt or leases issued by those governmental units; [PL 1991, c. 605, §1 (AMD).]

B. To assist those governmental units in fulfilling their needs for such purposes by use of creation of indebtedness; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To the extent possible, to reduce the costs of indebtedness to taxpayers and residents of the State and to encourage continued investor interest in the purchase of bonds or notes of those governmental units as sound and preferred securities for investment; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. To encourage its governmental units to continue their independent undertakings of public improvements and other municipal purposes and the financing thereof and to assist them in those activities by making funds available at reduced interest costs for orderly financing of those purposes, especially during periods of restricted credit or money supply, particularly for those governmental units not otherwise able to borrow for those purposes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1991, c. 605, §1 (AMD).]

2. Declaration of necessity. It is further declared that current credit and municipal bond market conditions require the exercise of state powers in the interest of its governmental units to further and implement these policies by:

A. Authorizing a state instrumentality to be created as a body corporate and politic to have full powers to borrow money and to issue its bonds and notes to make funds available through the facilities of the instrumentality at reduced rates and on more favorable terms for borrowing by such governmental units through the instrumentality's purchase of the bonds or notes of the governmental units in fully marketable form; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Granting broad powers to the instrumentality to accomplish and to carry out these policies of the State which are in the public interest of the State and of its taxpayers and residents. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 605, §1 (AMD).

§5903. Definitions

(CONFLICT)

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Bank or bond bank. "Bank" or "bond bank" means the Maine Municipal Bond Bank created by section 5951.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Bondholder or holder or noteholder. "Bondholder" or "holder" or "noteholder" or any similar term when used with reference to a bond or note of the bank means any person who is the bearer of any outstanding bond or note of the bank registered to bearer or not registered, or the registered owner of any outstanding bond or note of the bank which at the time is registered other than to bearer.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bonds. "Bonds" means bonds of the bank issued under this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3-A. Capital reserve fund. "Capital reserve fund" means any capital reserve fund created or established as provided in section 6006, subsection 1-A.

[PL 1989, c. 48, §§13, 31 (NEW).]

3-B. Downtown. "Downtown" means:

A. The central business district of a community that serves as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along a main street and intersecting side streets, walkable and served by public infrastructure; or [PL 1999, c. 776, §12 (NEW).]

B. An area identified as a downtown in a comprehensive plan adopted pursuant to chapter 187, subchapter II. [PL 1999, c. 776, §12 (NEW).]

[PL 1999, c. 776, §12 (NEW).]

3-C. Downtown improvement. "Downtown improvement" includes facade, utility relocation or extension, historic preservation and parking and road improvement; elevator, sprinkler system and traffic control devices installation; purchase of development rights for a park or open space and construction of park and open space amenities; and public toilet, streetscape, sidewalk and curb installation or upgrade.

[PL 1999, c. 776, §12 (NEW).]

4. Fully marketable form. "Fully marketable form" means a municipal security duly executed and accompanied by an approving legal opinion of a bond counsel of recognized standing in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, provided that the municipal security so executed need not be printed or lithographed nor be in more than one denomination.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. General fund. "General fund" means the fund created or established as provided in section 6007.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Governmental unit. "Governmental unit" means any county, municipality, school administrative district, community school district, public waste disposal corporation as authorized under Title 38, section 1304-B or other quasi-municipal corporation within the State, including any corporation owned entirely by a municipality and providing water, sewer or electric service or performing other essential governmental functions.

[PL 2007, c. 48, §1 (AMD).]

6-A. (CONFLICT: Text as amended by PL 2019, c. 343, Pt. D, §14) Median household income. "Median household income" means the income computed based on the most current census information available, as provided by the Governor's Office of Policy Innovation and the Future.

[PL 2019, c. 343, Pt. D, §14 (AMD).]

6-A. (CONFLICT: Text as amended by PL 2019, c. 343, Pt. IIII, §9) Median household income. "Median household income" means the income computed based on the most current census information available, as provided by the State Economist.

[PL 2019, c. 343, Pt. IIII, §9 (AMD).]

6-B. Municipal bond. "Municipal bond" means a bond or note or evidence of debt issued by a municipality and payable from taxes or from rates, charges or assessments, but does not include any bond or note or evidence of debt issued under chapter 213 or Title 10, chapter 110, subchapter IV.

[PL 1989, c. 48, §§14, 31 (NEW).]

6-C. Municipal bond insurance fund. "Municipal bond insurance fund" means any fund or funds established by the bank to provide reserves to insure payment of any state or municipal issuance of debt, pursuant to a bond insurance program established by the bank.

[PL 1991, c. 605, §2 (NEW).]

7. Municipal security. "Municipal security" means a bond or note or evidence of debt issued by a governmental unit and payable from taxes or from rates, charges or assessments, but does not include any bond or note or evidence of debt issued under chapter 213 or Title 10, chapter 110, subchapter IV.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7-A. Municipality. "Municipality" means:

A. Any city, town, special district, county, plantation or municipal village corporation within the State, including any corporation owned entirely by any entity specified in this paragraph and providing water, sewer or electric service or performing other essential governmental functions; [PL 2005, c. 552, §1 (AMD).]

B. For the purpose of section 5953, subsection 1, paragraph D only, any water utility as defined in subsection 13; or [PL 1997, c. 555, §1 (AMD).]

C. For the purpose of section 5953, subsection 1, paragraph D, section 5953-B and section 6006-B, any public water system as defined under Title 22, section 2601, subsection 8. [PL 1997, c. 555, §2 (NEW).]

[PL 2005, c. 552, §1 (AMD).]

8. Notes. "Notes" means any notes of the bank issued under this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8-A. Public service infrastructure. "Public service infrastructure" means those facilities that are essential for public health, welfare and safety. Those facilities include, without limitation, sewage treatment facilities, municipal water supply and treatment facilities, solid waste facilities, public safety equipment and facilities, roads, traffic control devices and other transportation facilities, sidewalks, trees, buried utility lines and other streetscape improvements, parks and other open space or recreational areas, public access to coastal and inland waters, geographic information systems, and any other public facility that benefits the public.

[PL 2001, c. 90, §3 (AMD).]

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

[PL 2009, c. 517, §15 (NEW).]

8-C. Recovery zone economic development bond. "Recovery zone economic development bond" has the same meaning as in 26 United States Code, Section 1400U-2, as amended.

[PL 2009, c. 517, §16 (NEW).]

9. Required debt service reserve. "Required debt service reserve" means the amount required to be on deposit in the reserve fund as prescribed by section 6006, subsection 1.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§16, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9-A. Required minimum reserve. "Required minimum reserve" means the amount required to be on deposit in a capital reserve fund as prescribed by section 6006, subsection 1-A.

[PL 1989, c. 48, §§17, 31 (NEW).]

10. Reserve fund. "Reserve fund" means the Maine Municipal Bond Bank Reserve Fund created or established as provided in section 6006.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

11. Revenues. "Revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal securities and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bank under this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

12. Revolving loan fund. "Revolving loan fund" means that revolving loan fund created under section 6006-A.
[PL 1989, c. 48, §§18, 31 (NEW).]

13. Water utility. "Water utility" means an entity as defined in Title 35-A, section 102, subsection 22.
[PL 1991, c. 775, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§13-18,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 605, §2 (AMD). PL 1991, c. 775, §1 (AMD). PL 1993, c. 2, §5 (AMD). PL 1993, c. 721, §D2 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1997, c. 555, §§1,2 (AMD). PL 1999, c. 776, §12 (AMD). PL 2001, c. 90, §3 (AMD). PL 2001, c. 484, §1 (AMD). PL 2005, c. 552, §1 (AMD). PL 2007, c. 48, §1 (AMD). PL 2009, c. 517, §§15, 16 (AMD). PL 2011, c. 655, Pt. DD, §13 (AMD). PL 2011, c. 655, Pt. DD, §24 (AFF). PL 2019, c. 343, Pt. D, §14 (AMD). PL 2019, c. 343, Pt. IIII, §9 (AMD).

§5904. Liberal construction of chapter

This chapter shall be construed liberally to effectuate the legislative intent and the purposes of this chapter as complete and independent authority for the performance of each and every act and thing authorized in this chapter and all powers granted in this chapter shall be broadly interpreted to effectuate that intent and purposes and not as a limitation of powers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

ESTABLISHMENT AND POWERS

§5951. Creation of bank and membership

1. Bank established. There is established a public body corporate and politic to be known as the "Maine Municipal Bond Bank" in accordance with Title 5, chapter 379. The bank is constituted as an instrumentality of the State exercising public and essential governmental functions. The bank's exercise of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the State.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Board of commissioners; oath. The bank shall consist of a board of 5 commissioners, including:

A. The Treasurer of State who serves as a commissioner ex officio.

(1) The Treasurer of State may designate the Deputy Treasurer of State to serve in place of the Treasurer of State; [RR 2015, c. 2, §21 (COR).]

B. The Superintendent of Financial Institutions, who also serves as a commissioner ex officio.

(1) The Superintendent of Financial Institutions may designate a deputy superintendent to serve in place of the Superintendent of Financial Institutions; and [PL 2007, c. 79, §25 (AMD).]

C. Three commissioners, who must be residents of the State, appointed by the Governor for terms of 3 years. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Before entering upon their duties all commissioners shall take and subscribe to an oath to perform the duties of office faithfully, impartially and justly to the best of their abilities. A record of these oaths shall be filed in the office of the Secretary of State.
[RR 2015, c. 2, §21 (COR).]

3. Terms; vacancy; removal. Each commissioner shall hold office for the term of appointment and until a successor has been appointed and has qualified. A commissioner may be reappointed. Any vacancy occurring other than by the expiration of a term shall be filled by appointment for the unexpired term. The Governor may remove a commissioner from office for cause after a public hearing. The Governor may suspend a commissioner pending the completion of this hearing.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Officers of board; exercise of powers. The board of commissioners shall elect one of its members as chair and one as vice-chair and shall appoint an executive director who also serves as both secretary and treasurer. The powers of the bank are vested in the commissioners of the bank in office from time to time. Three commissioners of the bank constitute a quorum at any meeting of the commissioners. Action may be taken and motions and resolutions adopted by the bank at any meeting by the affirmative vote of at least 3 commissioners of the bank. A vacancy in the office of commissioner of the bank does not impair the right of a quorum of the commissioners to exercise all the powers and perform all the duties of the bank.

The board of commissioners may meet by telephonic, video, electronic or other similar means of communication with less than a quorum assembled physically at the location of a public proceeding identified in the notice required by Title 1, section 406 only if:

A. Each commissioner can hear all other commissioners, speak to all other commissioners and, to the extent reasonably practicable, see all other commissioners by videoconferencing or other similar means of communication during the public proceeding, and members of the public attending the public proceeding at the location identified in the notice required by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see all commissioners participating from other locations by videoconferencing or other similar means of communication; [PL 2015, c. 449, §4 (NEW).]

B. Each commissioner who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the commissioner is participating; [PL 2015, c. 449, §4 (NEW).]

C. A commissioner who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the commissioner's attendance is not reasonably practical. The reason that the commissioner's attendance is not reasonably practical must be stated in the minutes of the meeting; and [PL 2015, c. 449, §4 (NEW).]

D. Each commissioner who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public

proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the commissioner not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate an action taken by the bank at the public proceeding. [PL 2015, c. 449, §4 (NEW).]

[PL 2015, c. 449, §4 (AMD).]

5. Surety bonds required. Before issuing any bonds or notes under this chapter, each commissioner of the bank must execute a surety bond in the penal sum of $25,000 and the executive director of the bank must execute a surety bond in the penal sum of $50,000. The surety bonds must be:

A. Conditioned upon the faithful performance of the duties of the office of the commissioner or executive director; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Executed by a surety company authorized to transact business in the State as surety; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Approved by the Attorney General; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Filed in the office of the Secretary of State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

At all times after the bank issues any bonds or notes, each commissioner of the bank and the executive director shall maintain the surety bonds in full force and effect. The bank shall bear all the costs of these surety bonds.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Compensation. Each public member of the board of commissioners shall be compensated according to Title 5, chapter 379. All commissioners shall be reimbursed for their reasonable expenses incurred in carrying out their duties under this chapter. Notwithstanding any other law, no officer or employee of the State may be deemed to have forfeited or may forfeit their office or employment or any benefits or emoluments of their office or employment due to accepting the office of commissioner of the bank or performing services in that office.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Employees. The executive director may employ, upon approval of the board of commissioners, a general counsel, architects, engineers, accountants, attorneys, financial advisors or experts and any other officers, agents and employees who are required and determine their qualifications, terms of office, duties and compensation. The board of commissioners shall fix the duties and compensation of the executive director.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2007, c. 79, §25 (AMD). RR 2015, c. 2, §21 (COR). PL 2015, c. 449, §4 (AMD).

§5952. Conflict of interest

No commissioner of the bank may participate in any decision on any contract entered into by the bank, if the commissioner has any pecuniary interest, direct or indirect in any firm, partnership, corporation or association which is or may be a party to the contract. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Contracts or agreements obtained through properly advertised bid procedures, or the ownership of stock or other interest in any firm, partnership, corporation or association in which the commissioner does not actively participate in day-to-day management shall not be interpreted as a direct or indirect pecuniary interest in violation of this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5953. Lending and borrowing powers generally

1. Powers. For the purposes authorized by this chapter, the bank may:

A. Lend money to governmental units through the bank's purchase of municipal securities of governmental units in fully marketable form; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Authorize and issue its bonds and notes payable solely from the revenues or funds available to the bank for that purpose; [PL 1991, c. 605, §3 (AMD).]

C. Otherwise assist governmental units as provided in this chapter; and [PL 1991, c. 605, §3 (AMD).]

D. Borrow money and make the borrowing proceeds available to the municipality at terms agreed upon by the bank and the municipality. [PL 1993, c. 2, §6 (AMD).]

[PL 1993, c. 2, §6 (AMD).]

2. Payment; state not liable. Bonds and notes of the bank issued under this chapter are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or debts, liability or liabilities on behalf of the State or constitute a pledge of the faith and credit of the State. All bonds and notes of the bank issued under this chapter, unless funded or refunded by bonds or notes of the bank, are payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond and note shall contain on its face a statement to the effect that the bank is obligated to pay the principal or interest and redemption premium, if any, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on the bonds or notes.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Expenses. All expenses incurred in carrying out the purposes of this chapter are payable solely from revenues or funds provided under this chapter. Nothing in this chapter may be construed to authorize the bank to incur any indebtedness or liability on behalf of or payable by the State.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 605, §§3,4 (AMD). PL 1991, c. 775, §2 (AMD). PL 1993, c. 2, §6 (AMD).

§5953-A. Loans from revolving loan fund

1. Loan application. A municipality may apply for a loan from the revolving loan fund, the proceeds of which must be used for the following:

A. To acquire, design, plan, construct, enlarge, repair or improve a publicly owned sewage or water system or sewage or water treatment plant or to implement a related management program; [PL 1995, c. 564, §1 (NEW).]

B. To remediate municipal landfills that affect groundwater; or [PL 1995, c. 564, §1 (NEW).]

C. For any actions authorized under the federal Clean Water Act, 33 United States Code, Sections 1251 to 1387. [PL 1995, c. 564, §1 (NEW).]

The bank may prescribe any application form or procedure required of a municipality for a loan under this section. The application must include any information that the bank determines necessary for the purpose of implementing this section and section 6006-A.
[PL 1995, c. 564, §1 (RPR).]

2. Loan; loan agreements. Loans are subject to this subsection.

A. The bank may make loans from the revolving loan fund to a municipality for one or more of the purposes set forth in subsection 1. Each of the loans is subject to the following conditions.

(1) The total amount of loans outstanding at any one time from the revolving loan fund may not exceed the balance of the fund, provided that the proceeds of bonds or notes of the bank deposited in the fund and binding financial commitments of the United States to deposit money in the fund are included in determining the fund balance.

(2) The loan must be evidenced by a municipal bond or such other agreement or instrument as the bank determines necessary or advisable.

(3) The rate of interest charged for the loans must be at or below market interest rates.

(4) Subject to the limitations of subparagraph (3), the rate of interest charged for the loans made to municipalities under this section or the manner of determining the rate of interest must be established from time to time by direction of the bank, taking into consideration the current average rate on outstanding marketable obligations, as well as the policies of the Department of Environmental Protection. [PL 1991, c. 605, §6 (AMD).]

B. Loans made to a municipality by the bank under this section shall be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the bank and the municipality. The loan agreement shall specify the terms and conditions of disbursement of loan proceeds. The loan agreement shall state the term and interest rate of the loan, the scheduling of loan repayments and any other terms and conditions determined necessary or desirable by the bank. [PL 1989, c. 48, §§19, 31 (NEW).]
[PL 1991, c. 605, §6 (AMD).]

3. Eligibility certification. No loan to a municipality may be made under this section until:

A. The applicant certifies to the bank that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the loan; [PL 1989, c. 48, §§19, 31 (NEW).]

B. The applicant demonstrates to the bank that it has established a rate, charge or assessment schedule which will generate annually sufficient revenue to pay, or has otherwise provided

sufficient assurances that it will pay, the principal of and interest on the municipal bond or other debt instrument which evidences the loan made by the bank to the municipality under this section and to pay reasonably anticipated costs of operating and maintaining the financed project and the system of which it is a part; [PL 1989, c. 48, §§19, 31 (NEW).]

C. The applicant certifies to the bank that it has created a dedicated source of revenue, which may constitute general revenues of the applicant through a general obligation pledge of the applicant, for repayment of the loan; [PL 1989, c. 48, §§19, 31 (NEW).]

D. The applicant and the project to be financed by the proceeds of the loan have been designated by the Department of Environmental Protection as eligible to participate in a construction or implementation program funded wholly or in part by the State and from the proceeds of the revolving loan fund; [PL 1989, c. 48, §§19, 31 (NEW).]

E. The Department of Environmental Protection certifies to the bank that any management program to be financed complies with all applicable state and federal laws and all rules and regulations adopted under those laws; and [PL 1989, c. 48, §§19, 31 (NEW).]

F. The Department of Environmental Protection certifies to the bank that the loan eligibility priority, established under section 6006-A, subsection 3, entitles the applicant to immediate financing or assistance under this section. [PL 1989, c. 48, §§19, 31 (NEW).]

[PL 1989, c. 48, §§19, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§19,31 (NEW). PL 1991, c. 605, §§5,6 (AMD). PL 1995, c. 564, §1 (AMD).

§5953-B. Loans from safe drinking water revolving loan fund

1. Loan application. In addition to the other forms of financial assistance available under section 6006-B, a public water system that is a community water system or a nonprofit water system that is not a community water system may apply for a loan from the safe drinking water revolving loan fund, in this section called the "fund," the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair, protect or improve drinking water supplies or treatment systems owned by the applicant; to acquire development rights, conservation easements and other protective interests in land by the applicant or in cooperation with a land trust or similar entity; or for any actions authorized or required under the federal Safe Drinking Water Act of 1996, 42 United States Code, Sections 300f to 300j-9, as amended.

The bank may prescribe an application form or procedure for a public water system to apply for a loan under this section. The application must include any information that the bank determines necessary for the purpose of implementing this section and section 6006-B.

For purposes of this section, the term "public water system" has the same meaning as defined in Title 22, section 2601, subsection 8.

[PL 2007, c. 353, §5 (AMD).]

2. Loan; loan agreements. Loans from the fund are subject to this subsection.

A. The bank may make loans from the fund to a public water system for one or more of the purposes set forth in subsection 1. Each of the loans is subject to the following conditions.

(1) The total amount of loans outstanding at any one time from the fund may not exceed the balance of the fund, provided that the proceeds of bonds or notes of the bank deposited in the fund, revenues from other sources deposited in the fund and binding financial commitments of the United States to deposit money in the fund are included in determining the fund balance.

(2) The loan must be evidenced by a municipal bond or other debt instrument in a form acceptable to the bank, payable by the public water system over a term not to exceed 20 years

from completion of construction of the project, or 30 years from completion of construction of the project in the case of a public water system that the bank and the Department of Health and Human Services have determined serves a disadvantaged community, with annual principal or interest payments commencing not later than one year after the project being financed is completed.

(3) The rate of interest charged for the loans must be at or below market interest rates, including an interest-free loan.

(4) Subject to the limitations of subparagraph (3), the rate of interest charged for the loans made to public water systems under this section or the manner of determining the rate of interest must be established from time to time by direction of the bank, taking into consideration the current average rate on outstanding marketable obligations and the policies of the Department of Health and Human Services. [PL 1999, c. 77, §2 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

B. Loans made to a public water system by the bank under this section must be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the bank and the public water system. The loan agreement must specify the terms and conditions of disbursement of loan proceeds. The loan agreement must state the term and interest rate of the loan, the scheduling of loan repayments and any other terms and conditions determined necessary or desirable by the bank. Loans made to a public water system by the bank under this section may include provisions for forgiveness of principal payments or loan repayment computation that results in an effective negative interest cost. [PL 1997, c. 555, §3 (AMD).]

[PL 1999, c. 77, §2 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Eligibility certification. A loan to a public water system may not be made under this section until:

A. The applicant certifies to the bank that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the loan; [PL 1989, c. 48, §§19, 31 (NEW).]

B. The applicant demonstrates to the bank that it has established a rate, charge or assessment schedule that generates annually sufficient revenue to pay, or has otherwise provided sufficient assurances that it pays, the principal of and interest on the municipal bond or other debt instrument that evidences the loan made by the bank to the public water system pursuant to the loan agreement under this section and to pay reasonably anticipated costs of operating and maintaining the financed project and the system of which it is a part; [PL 1997, c. 555, §3 (AMD).]

C. The applicant certifies to the bank that it has created a dedicated source of revenue that may constitute general revenues of the applicant through a general obligation pledge of the applicant for repayment of the loan; [PL 1997, c. 555, §3 (AMD).]

D. In the case of a privately owned public water system, the system must demonstrate that:

(1) It has adequate security, guarantees or other assets for repayment of the loan; and

(2) Undue benefits do not accrue to owners of a privately owned water system due to financing provided under this section; and [PL 1997, c. 555, §3 (NEW).]

E. The Department of Health and Human Services certifies to the bank that the loan eligibility priority, established under section 6006-B, subsection 5, entitles the applicant to financing or assistance under this section. [PL 1997, c. 705, §14 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1997, c. 705, §14 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1991, c. 605, §7 (NEW). PL 1997, c. 555, §3 (AMD). PL 1997, c. 705, §14 (AMD). PL 1999, c. 77, §2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 353, §5 (AMD).

§5953-C. Loans for energy efficiency improvements in municipal and school buildings

This section establishes a program to promote energy efficiency and indoor air quality in municipal and school buildings. [PL 1993, c. 605, §1 (NEW).]

1. Efficiency Partners Program. The bank shall establish the Efficiency Partners Program, referred to in this section as "the program," designed to reduce energy costs in municipal and school buildings and to create jobs by financing energy audits and cost-effective improvements that accomplish energy efficiency while maintaining healthful indoor air quality. The bank shall issue a request for proposals for energy audits of municipal and school buildings and for energy savings that could be achieved through cost-effective improvements to heating and cooling systems, windows, insulation, lighting and equipment in municipal and school buildings. Identification of cost-effective improvements to achieve energy savings under the program must be based on a comprehensive energy audit that has been performed within the previous 5 years by a professional engineer licensed in this State. An energy audit that is financed under the program or is the basis for cost-effective energy efficiency improvements financed under the program must address compliance with the model building energy code adopted by the Public Utilities Commission pursuant to Title 35-A, section 121.
[PL 2007, c. 66, §1 (AMD).]

2. Access to the program. Municipalities and school administrative units may have access to the program regardless of whether the municipality or school administrative unit utilizes a loan pursuant to this section to finance an energy audit or cost-effective energy efficiency improvements.
[PL 2007, c. 66, §1 (AMD).]

3. Proposals; contracts. The bank shall solicit proposals from energy service companies and individual vendors of energy service products. Notwithstanding any provision of the law regarding bidding requirements, the bank shall contract with an energy service company or companies or vendor or vendors to provide energy services in municipal and school buildings under the program. Whenever the bid proposals received are substantially equivalent, the bank shall in the contract process select an in-state energy service company or vendor whose primary place of business is within this State. For public school projects, bid proposals for energy efficiency improvements must include plans and specifications that bear the stamp of a licensed professional engineer or licensed architect.
[PL 2019, c. 398, §41 (AMD).]

4. Loan; loan agreements. Loans from the bank for energy efficiency improvements must be structured to ensure to the greatest extent possible that the cost savings achieved by the energy efficiency improvements are sufficient to cover the loan and to achieve a net positive cash flow as early as practical. The rate of interest charged for loans made through the program for energy efficiency improvements or energy audits must be below the currently available rate of interest charged on commercial loans of equivalent term and use.
[PL 2007, c. 66, §1 (AMD).]

5. Energy Payment Equalization Fund. The bank shall establish a fund called the Energy Payment Equalization Fund. To the extent that the fund has assets available to it through funding by federal, state or local governments, or grants, gifts, donations or payments from any other source, money in the fund may be applied to loans made to municipalities in the program if achieved energy savings are not sufficient to offset the debt service payments on a loan made through the program. This fund may include deposits made by energy service companies or vendors to guarantee their commitment to achieve energy savings sufficient to offset debt service payments but may not include any other donations or payments from vendors or interested parties. The fund may be used to provide general interest rate reductions or principal reductions on any loan or group of loans made under the

program for energy audits or for energy efficiency improvements regardless of energy cost savings that may be achieved through the use of the proceeds of the loans or loan.
[PL 2007, c. 66, §1 (AMD).]

6. Report to the Legislature. Beginning in 2008, the bank shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the program. The report must document program activity during the prior 12 months, including, but not limited to, contracts made with energy service companies or vendors, loans made to municipalities or school administrative units, energy audits conducted and energy efficiency improvements implemented.
[PL 2007, c. 66, §1 (NEW).]

SECTION HISTORY

RR 1993, c. 2, §27 (COR). PL 1993, c. 605, §1 (NEW). PL 1993, c. 721, §D3 (NEW). PL 1993, c. 721, §H1 (AFF). PL 2007, c. 66, §1 (AMD). PL 2019, c. 398, §41 (AMD).

§5953-D. Assistance from Municipal Investment Trust Fund

1. Application for public service infrastructure grants and loans. In addition to the other forms of financial assistance available under section 6006-D, an eligible municipality or group of municipalities may apply for a public service infrastructure grant or loan from the Municipal Investment Trust Fund, in this section called the "fund," the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair, protect or improve public service infrastructure owned by the applicant.

The bank, in conjunction with the Department of Economic and Community Development, may prescribe an application form or procedure for an eligible municipality or group of municipalities to apply for a grant or loan under this section. The application must include all information necessary for the purpose of implementing this section and section 6006-D.
[PL 1999, c. 776, §13 (AMD).]

1-A. Application for downtown improvement grants and loans. In addition to the other forms of financial assistance available under section 6006-D, an eligible municipality or group of municipalities may apply for a downtown improvement grant or loan from the fund, the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair or protect downtown improvements.

The bank, in conjunction with the Department of Economic and Community Development, may prescribe an application form or procedure for an eligible municipality or group of municipalities to apply for a grant or a loan under this subsection. The application must include all information necessary for the purpose of implementing this section and section 6006-D.
[PL 2003, c. 288, §1 (AMD).]

2. Loan; loan agreements. Loans from the fund are subject to this subsection.

A. The bank may make loans from the fund to an eligible municipality or group of municipalities for one or more of the purposes set forth in subsection 1 and subsection 1-A. Each of the loans is subject to the following conditions.

(1) The total amount of loans outstanding at any one time from the fund may not exceed the balance of the fund; the proceeds of bonds or notes of the bank deposited in the fund, revenues from other sources deposited in the fund and binding financial commitments of the United States to deposit money in the fund must be included in determining the fund balance.

(2) The loan must be evidenced by a municipal bond or other debt instrument, payable by the municipality over a term not to exceed 40 years with annual principal or interest payments commencing not later than one year after the project being financed is completed.

(3) The rate of interest charged for the loans must be at or below market interest rates.

(4) Subject to the limitations of subparagraph (3), the rate of interest charged for the loans made to municipalities under this section or the manner of determining the rate of interest must be established from time to time by direction of the bank, taking into consideration the current average rate on outstanding marketable obligations. [PL 1999, c. 776, §13 (AMD).]

B. Loans made to a municipality by the bank under this section must be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the bank and the municipality. The loan agreement must specify the terms and conditions of disbursement of loan proceeds. The loan agreement must state the term and interest rate of the loan, the scheduling of loan repayments and any other terms and conditions determined necessary or desirable by the bank. [PL 1993, c. 721, Pt. D, §3 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).] [PL 1999, c. 776, §13 (AMD).]

3. Eligibility certification. The bank may not make a grant or loan to a municipality or group of municipalities under this section until:

A. The applicant certifies to the bank that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the grant or loan; [PL 1993, c. 721, Pt. D, §3 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

B. In the case of a loan, the applicant demonstrates to the bank that it has established a rate, charge or assessment schedule that generates annually sufficient revenue to pay, or has otherwise provided sufficient assurances that it pays, the principal of and interest on the municipal bond or other debt instrument that evidences the loan made by the bank to the municipality pursuant to the loan agreement under this section and to pay reasonably anticipated costs of operating and maintaining the financed project and the system of which it is a part; [PL 1993, c. 721, Pt. D, §3 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

C. In the case of a loan, the applicant certifies to the bank that it has created a dedicated source of revenue that may constitute general revenues of the applicant through a general obligation pledge of the applicant for repayment of the loan; [PL 1999, c. 776, §13 (AMD).]

D. In the case of a grant or loan, the Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant or a loan, or a combination of both, if that municipality has adopted a growth management program certified under section 4347-A that includes a capital improvement program composed of the following elements:

(a) An assessment of all public facilities and services, such as, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire and police;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that is determined by the Executive Department, former State Planning Office or the Department of Agriculture, Conservation and Forestry to be consistent with section 4326, subsections 1 to 4.

(3) A municipality is eligible to receive a grant or a loan if that municipality is a service center community.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of subparagraph (1), (2) or (3) may jointly apply for assistance under this section; and [PL 2011, c. 655, Pt. JJ, §27 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

E. In the case of a downtown improvement grant or loan, the Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph. A municipality is eligible to receive a downtown improvement grant or loan if that municipality has:

(1) Shown broad-based support for downtown revitalization;

(2) Established a comprehensive downtown revitalization work plan, including a definition and a map of the affected area;

(3) Developed measurable goals and objectives;

(4) Demonstrated an historic preservation ethic;

(9) Developed the capacity to report on the progress of the downtown program; and

(10) Established the ability and willingness to support integrated marketing efforts for retailers, services, activities and events. [PL 2003, c. 288, §2-A (AMD).]

[PL 2011, c. 655, Pt. JJ, §27 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

4. Criteria; conditions for public service infrastructure grants and loans. The Department of Economic and Community Development, in conjunction with the bank, shall develop criteria and conditions for the award of public service infrastructure loans and grants to eligible municipalities subject to the requirements of this section. The department shall:

A. [PL 2001, c. 621, §1 (RP).]

A-1. Give highest priority equally to:

(1) Service center communities. For purposes of this section, "service center community" has the same definition as in section 4301; and

(2) Projects undertaken jointly by 2 or more municipalities; [PL 2001, c. 621, §1 (NEW).]

B. Following the highest priority described in paragraph A-1, establish a preference for those municipalities eligible under subsection 3, paragraph D, subparagraph (1) over those municipalities eligible under subsection 3, paragraph D, subparagraph (2); [PL 2001, c. 621, §1 (AMD).]

C. [PL 2001, c. 90, §5 (RP).]

D. Following the preference described in paragraph B, establish a preference for capital investment projects that provide substantial regional benefits; [PL 2001, c. 621, §1 (AMD).]

E. Adopt other criteria as it determines necessary to ensure that loans and grants made under this section maximize the ability of municipalities to accommodate planned growth and economic development; and [PL 1993, c. 721, Pt. D, §3 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

F. Condition any loans and grants under this section on consistency with the municipality's comprehensive plan or local growth management program. [PL 1993, c. 721, Pt. D, §3 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

[PL 2001, c. 621, §1 (AMD).]

4-A. Criteria; conditions for downtown improvement grants or loans. The Department of Economic and Community Development, in conjunction with the bank, shall develop criteria and conditions for the award of downtown improvement grants or loans to eligible municipalities after consultation with the state agencies listed in subsection 5 and subject to the requirements of this section.

The department shall establish a preference for municipalities that are regional service centers or urban compact municipalities or have adopted a comprehensive plan consistent with section 4326.
[PL 2003, c. 288, §3 (AMD).]

5. Coordination. The bank shall coordinate the loans and grants made under this section with all other community assistance loans and grants administered by the Department of Economic and Community Development and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Agriculture, Conservation and Forestry and the Department of Environmental Protection.
[PL 2011, c. 655, Pt. JJ, §28 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Municipal Capital Investment Advisory Commission.

[PL 1999, c. 668, §117 (RP).]

7. Report to the Legislature. The bank shall report to the joint standing committee of the Legislature having jurisdiction over natural resource matters no later than January 1st of each odd-numbered year on the loans and grants program. The bank may make any recommendations it finds necessary to more effectively achieve the purposes of this section, including the appropriation of any necessary additional funds.
[PL 1999, c. 776, §13 (AMD).]

SECTION HISTORY

RR 1993, c. 2, §27 (RNU). PL 1993, c. 721, §D3 (NEW). PL 1993, c. 721, §H1 (AFF). RR 1999, c. 2, §34 (COR). PL 1999, c. 668, §117 (AMD). PL 1999, c. 776, §13 (AMD). PL 2001, c. 90, §§4,5 (AMD). PL 2001, c. 406, §16 (AMD). PL 2001, c. 621, §1 (AMD). PL 2001, c. 667, §A49 (AMD). PL 2003, c. 288, §§1-3 (AMD). PL 2011, c. 655, Pt. JJ, §§27, 28 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV).

§5953-E. Maine School Facilities Finance Program

There is established the Maine School Facilities Finance Program to promote efficient capital financing activities for the construction, renovation and maintenance of school facilities and the lease-purchase of school facilities. [PL 1999, c. 81, §14 (AMD).]

1. Loan application. In addition to the other forms of financial assistance available under this chapter, a public school, school administrative district, municipality, community school district or other school administrative unit may apply for a loan from the School Revolving Renovation Fund under section 6006-F, in this section called the "fund," the proceeds of which must be used to finance the cost of school repair and renovation under section 6006-F, subsection 3, as designated by the Department of Education.

A. The bank may prescribe an application form or procedure for a school administrative unit to apply for a loan under this section. The application must include any information that the bank determines necessary for the purpose of implementing this section and section 6006-F. [PL 1997, c. 787, §12 (NEW).]

[PL 1997, c. 787, §12 (NEW).]

2. Loan; loan agreements. Loans from the fund are subject to this subsection.

A. The bank may make loans from the fund to a school administrative unit for one or more of the purposes set forth in subsection 1. The loans may be made in conjunction with, at the same time as or as part of a project that obtains any other form of assistance or loan under this chapter. Each loan is subject to the following conditions.

(1) The total amount of loans outstanding at any one time from the fund may not exceed the balance of the fund, provided that the proceeds of bonds or notes of the bank deposited in the fund, revenues from other sources deposited in the fund, repayments from outstanding loans due and payable and binding financial commitments of the United States or any other 3rd party to deposit money in the fund are included in determining the fund balance.

(2) The loan must be evidenced by a municipal bond, loan agreement or other debt instrument, payable by the school administrative unit over a term not to exceed 15 years with annual principal or interest payments commencing not later than one year after the project being financed is completed.

(3) The rate of interest charged for the loans may not exceed 0%. The bank, pursuant to a determination by the Department of Education under section 6006-F, may provide loans to a school administrative unit with forgiveness of principal or an effective interest rate of less than 0%. A school unit must pay back by the end of the term of the loan an amount no less than 30% of the original principal amount of the loan nor more than 70% of the original principal amount of the loan. [PL 1997, c. 787, §12 (NEW).]

B. Loans made to a school administrative unit by the bank under this section must be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the bank and the school administrative unit. The loan agreement must specify the terms and conditions of disbursement of loan proceeds. The loan agreement must state the term, rate of interest, any amount of principal forgiveness, scheduling of loan repayments and any other terms and conditions determined necessary or desirable by the bank. Loans made to a school administrative unit by the bank under this section may include provisions for forgiveness of principal payments or loan repayment computation that results in an effective negative interest rate. [PL 1997, c. 787, §12 (NEW).]

[PL 1997, c. 787, §12 (NEW).]

3. Loan management. Proceeds from any indebtedness from the fund incurred by a school administrative unit for the purposes of new construction, renovation or capital acquisition must be deposited in the bank. Proceeds from any other indebtedness incurred by a school administrative unit for the purposes of new construction, renovation or capital acquisition may be deposited in the bank. Any proceeds held must be invested by the bank for the benefit of the school administrative unit. The bank shall pay to a school administrative unit those amounts necessary for incurred costs or for reimbursement for incurred costs associated with the project for which the indebtedness was incurred. Funds from any indebtedness from the fund remaining after payment of all eligible project and financing costs must be deposited in the fund.

[PL 1997, c. 787, §12 (NEW).]

4. Eligibility certification. A loan to a school administrative unit may not be made under this section until:

A. The applicant certifies to the bank that it has secured all permits, licenses and approvals necessary to undertake the renovations and construct the improvements to be financed by the loan; [PL 1997, c. 787, §12 (NEW).]

B. The applicant has been designated by the Department of Education as eligible to receive the loan; and [PL 1997, c. 787, §12 (NEW).]

C. The applicant demonstrates to the satisfaction of the bank that it has the ability to repay the loan made to the school administrative unit by the bank. [PL 1997, c. 787, §12 (NEW).]

The Department of Education and the bank shall adopt rules necessary to implement this section. Rules adopted by the Department of Education and the bank to implement this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 787, §12 (NEW).]

SECTION HISTORY

PL 1997, c. 787, §12 (NEW). PL 1999, c. 81, §14 (AMD).

§5953-F. Recovery zone economic development bonds; qualified energy conservation bonds

To the extent permitted by federal law, the county commissioners of any county may authorize the bank to issue recovery zone economic development bonds or qualified energy conservation bonds on behalf of that county. [PL 2009, c. 517, §17 (NEW).]

1. Recovery zone economic development bonds. To the extent permitted by federal law, the allocation to counties of the national recovery zone economic development 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 bank for further reallocation by the bank for any project in any county of the State, as long as one half of each such allocation is further reallocated by the bank 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 July 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 July 1, 2010, but not so reallocated, may be reallocated by the bank for any project in any county of the State.
[PL 2009, c. 517, §17 (NEW).]

2. Qualified energy conservation bonds. To the extent permitted by federal law, 70% 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 bank for further reallocation by the bank for any project in any county of the State, as long as one half of each such allocation is further reallocated by the bank 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 July 1, 2011. 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 July 1, 2011, but not so reallocated, may be reallocated by the bank for any project in any county of the State.
[PL 2009, c. 517, §17 (NEW).]

3. Waivers. Reallocations pursuant to this section are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 54D et seq. and Section 1400U-1 et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.
[PL 2009, c. 517, §17 (NEW).]

SECTION HISTORY

PL 2009, c. 517, §17 (NEW).

§5954. Corporate powers

1. Powers. The bank is constituted a public body corporate and politic and an instrumentality of the State and shall have perpetual succession. For carrying out the purposes of this chapter, the bank may:

A. Sue and be sued; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Adopt and have an official seal and alter the seal at pleasure; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Make and enforce bylaws and rules for the conduct of its affairs and business and for the use of its services and facilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Maintain an office at any place or places within the State that it determines; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Acquire, hold, use and dispose of its income, revenue, funds and money; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Acquire, rent, lease, hold, use and dispose of other personal and real property for its purposes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 374, §1 (AMD).]

G. Borrow money and issue its negotiable bonds or notes, provide for and secure the payment of its bonds or notes, provide for the rights of the holders of those bonds and notes and purchase, hold and dispose of any of its bonds or notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. Accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States or the State or any other state or agencies or departments of those entities, or from any governmental unit or any person, and carry out the terms or provisions or make agreements with respect to any such gifts or grants, and do any and all things necessary, useful, desirable or convenient in connection with procuring, accepting or disposing of those gifts or grants; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. Do and perform any acts and things authorized by this chapter under, through or by means of its officers, agents or employees or by contracts with any person; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

K. Make, enter into and enforce all contracts or agreements necessary, convenient or desirable for the purposes of the bank or pertaining to any loan to a governmental unit or any purchase or sale of municipal securities or other investments or to the performance of its duties and execution or carrying out of any of its powers under this chapter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

L. Purchase or hold municipal securities of governmental units at such prices and in such manner as the bank considers advisable, and sell municipal securities acquired or held by it at such prices without relation to cost and in such manner as the bank considers advisable; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

M. Invest any funds or money of the bank not then required for loan to governmental units and for the purchase of municipal securities in the same manner as permitted for the investment of funds belonging to the State or held in the State Treasury, except as otherwise permitted or provided by

this chapter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

N. Fix and prescribe any form of application or procedure to be required of a governmental unit for the purpose of any loan or the purchase of its municipal securities, and fix the terms and conditions of any such loan or purchase and to enter into agreements with governmental units with respect to any such loan or purchase; [PL 1991, c. 605, §8 (AMD).]

O. Do all acts and things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter; and [PL 1991, c. 605, §8 (AMD).]

P. In accordance with the limitations and restrictions of this chapter, cause any of its powers, duties, programs or operations to be carried out by one or more nonprofit corporations. Nonprofit corporations acting at the direction of the bank must be organized and operated under the Maine Nonprofit Corporation Act. [PL 1991, c. 605, §9 (NEW).]

[PL 1991, c. 605, §§8, 9 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 374, §1 (AMD). PL 1991, c. 605, §§8,9 (AMD).

§5954-A. Aggregation service

1. Authority. In addition to its other enumerated powers, but subject to the limitations imposed under subsection 2, the bank, on behalf of or in partnership with one or more governmental units or nonprofit corporations organized under the Internal Revenue Code, Section 501, may aggregate governmental units and nonprofit corporations to purchase in bulk electricity, petroleum products, fuel oil and natural gas.

[PL 2005, c. 190, §1 (AMD).]

2. Conditions; limitations. In exercising its authority under subsection 1, the bank:

A. Is subject to all applicable provisions of law, including the provisions of Title 35-A relating to aggregators of customers of electricity; [PL 1999, c. 231, §2 (NEW).]

B. Must provide to any entity to whom it offers to provide services under subsection 1 notice that the entity is under no obligation to accept any of the services and that no other service provided by the bank is conditional upon or affected by the entity's acceptance or rejection of the offer; [PL 1999, c. 231, §2 (NEW).]

C. May not extend credit or vary the terms of credit based on an entity's acceptance or rejection of an offer by the bank to provide services pursuant to subsection 1; and [PL 1999, c. 231, §2 (NEW).]

D. May not encourage or otherwise seek to persuade any entity to accept any services offered by the bank pursuant to subsection 1, if the entity has an application with the bank for a loan, until after the bank has taken final action on approving or rejecting the application. [PL 1999, c. 231, §2 (NEW).]

[PL 1999, c. 231, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 231, §2 (NEW). PL 2005, c. 190, §1 (AMD).

§5955. Additional powers

In order to carry out the purposes and provisions of this chapter, the bank, in addition to any powers granted to it elsewhere in this chapter, may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737,

Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Loans. Consider, in connection with any loan to a governmental unit:

A. The need, desirability or eligibility of the loan; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The ability of the governmental unit to secure borrowed money from other sources and the costs of alternative financing; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The particular public improvements or purpose to be financed by the municipal securities to be purchased by the bank; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Charges. Impose and collect charges, whether or not the loan is made or evidence of borrowing or program participation is shown, or the municipal securities are purchased, for its costs and services, in review, consideration or servicing of:

A. Any proposed or outstanding loan; [PL 1991, c. 605, §10 (NEW).]

B. A loan agreement to borrow on behalf of a municipality; or [PL 1991, c. 605, §10 (NEW).]

C. A program participation agreement with a governmental unit. [PL 1991, c. 605, §10 (NEW).]

[PL 1991, c. 605, §10 (AMD).]

3. Purchase. Fix and establish any and all terms and provisions with respect to any purchase of municipal securities by the bank, including:

A. Dates and maturities of the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Provisions as to redemption or payment before maturity; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any other matters in connection with the bank's purchase of municipal securities which are necessary, desirable or advisable in the judgment of the bank; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Hearings. Conduct examinations and hearings and hear testimony and take proof, under oath or affirmation, at public or private hearings on any matter material for its information and necessary to carry out this chapter;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Subpoenas. Issue subpoenas requiring the attendance of witnesses and the production of books and papers relating to any hearing before the bank, or before one or more of the commissioners of the bank appointed by it to conduct that hearing;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Contempt. Apply to the Superior Court in Kennebec County, to have punished for contempt any witness who:

A. Refuses to obey a subpoena; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Refuses to be sworn or affirmed to testify; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Is guilty of any contempt after summons to appear; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Insurance. Procure insurance against any losses in connection with its property, operations or assets in such amounts, from such amounts and from such insurers as it considers desirable; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Modification. Consent to any modification with respect to rates of interests, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party, to the extent permitted under its contracts with the holders of bonds or notes of the bank.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 605, §10 (AMD).

§5956. State services

1. State assistance authorized. All state officers, departments, boards, agencies, divisions and commissions may provide any service to the bank that is:

A. Requested by the bank; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within the area of their governmental functions as established by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Study or review requests. All state officers, departments, boards, agencies, divisions and commissions shall promptly comply with any reasonable request made by the bank under subsection 1, as to the making of any study or review as to:

A. The desirability, need, cost or expense with respect to any such public project, purpose or improvement; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The financial feasibility of the project; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The financial or fiscal responsibility or ability in connection with the project of any governmental unit applying to the bank for a loan and for the bank's purchase of municipal securities to be issued by the governmental unit. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Cost of services. At the request of the officer, department, board, agency, division or commission providing the service, the bank shall pay the cost and expense of any services requested by the bank.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§5957. Allocation of state ceiling; recovery zone economic development bonds; qualified energy conservation bonds

By rulemaking under Title 5, chapter 375, subchapter 2, the bank may establish a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank under Title 10, chapter 9. The executive director of the Maine Municipal Bond Bank 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 bank pursuant to Title 10, chapter 9. [PL 2009, c. 517, §18 (AMD).]

By routine technical rulemaking defined under Title 5, chapter 375, subchapter 2-A the bank may establish a process for allocation of that portion of the national recovery zone economic development bond limitation established pursuant to 26 United States Code, Section 1400U-1, or that portion of the national qualified energy conservation bond limitation established pursuant to 26 United States Code, Section 54D, waived by any county or reallocated pursuant to section 5953-F and for designation by the bank of recovery zone economic development bonds and qualified energy conservation bonds. [PL 2009, c. 517, §18 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 224, §3 (AMD). PL 2009, c. 517, §18 (AMD).

§5958. Prohibited acts and limitation of powers

The bank may not: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Loans. Make loans of money to any person other than a governmental unit or purchase securities issued by any person other than a governmental unit or for investment, except as provided in this chapter;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Banking business. Emit bills of credit, accept deposits of money for time or demand deposit, administer trust, engage in any form or manner in, or in the conduct of, any private or commercial banking business or act as a savings bank or savings and loan association; or
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bank and trust company. Be or constitute a bank or trust company within the jurisdiction or under the control of the Bureau of Financial Institutions, the Superintendent of Financial Institutions or the comptroller of the currency of the United States or the United States Department of the Treasury. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

Nothing in this chapter may be construed to authorize or to empower the bank to be or to constitute a dealer in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States or of the State or of any other state or jurisdiction, domestic or foreign. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF).

§5959. Rules; reports

1. Rules. Appropriate state agencies and the bank may adopt rules and policies necessary to:

A. Implement sections 5953-A, 5953-B, 6006-A, 6006-B and 6006-D to ensure the self-sustaining nature of the funds created under sections 6006-A and 6006-B and that portion of the fund under section 6006-D determined to be self-sustaining; and [PL 1999, c. 668, §118 (AMD).]

B. Ensure compliance with the Federal Water Pollution Control Act, Title VI and the Federal Safe Drinking Water Act and their amendments. [PL 1991, c. 605, §11 (NEW).]
[PL 1999, c. 668, §118 (AMD).]

2. Contractual authority; reports. The Department of Environmental Protection, the Department of Health and Human Services and the bank may enter into agreements and shall provide notice as provided in this subsection.

A. The Department of Environmental Protection, the Department of Health and Human Services and the bank may enter into agreements on behalf of the State with agencies of the United States as may be necessary to obtain grants and awards in furtherance of the stated purposes for which the revolving loan funds created under sections 6006-A and 6006-B are established and take all other actions necessary to comply with the Federal Water Pollution Control Act, Title VI, and the federal Safe Drinking Water Act of 1996 and their amendments provided that notice of each of the agreements is made in a timely fashion to the Governor. [PL 1997, c. 555, §4 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

B. Annually, the Department of Environmental Protection and the bank shall notify the Governor of the amount of the fund created under section 6006-A anticipated to be available for the next fiscal year. [PL 1991, c. 605, §11 (NEW).]

B-1. Annually, the Department of Health and Human Services and the bank shall notify the Governor of the amount of the fund created under section 6006-B anticipated to be available for the next fiscal year. [PL 1997, c. 555, §4 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

C. The bank is designated by the State as the instrumentality empowered to:

(1) Administer the revolving loan funds, in conjunction with the Department of Environmental Protection and the Department of Health and Human Services;

(2) Accept capitalization grants or other deposits of funds from the Federal Government or any other source made under the Federal Water Pollution Control Act, Title VI or the federal Safe Drinking Water Act; and

(3) Manage the revolving loan funds in accordance with applicable federal and state laws, rules and regulations. [PL 1997, c. 555, §4 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1997, c. 555, §4 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1989, c. 48, §§20,31 (NEW). PL 1991, c. 605, §§11,12 (AMD). RR 1993, c. 2, §29 (COR). PL 1993, c. 721, §D4 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1997, c. 555, §4 (AMD). PL 1999, c. 668, §118 (AMD). PL 2003, c. 689, §B6 (REV).

SUBCHAPTER 3

FINANCIAL OPERATION

§6001. Budget

Not later than June 1st of each year the bank shall prepare and file in the office of the Bureau of the Budget a budget of its operating expenses for the ensuing fiscal year. This budget: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Quarterly requirements. Shall be prepared on the basis of quarterly requirements so that it will be possible to determine from the budget the operating expenses for each quarter of the year;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. General categories. Shall set forth the general categories of anticipated expenditures and the amount on account of each;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Reserves. Shall include provisions for reserve for contingencies and for overexpenditures; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Others. May set forth any additional material that the bank determines.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6002. Annual report

On or before the last day of December in each year, the bank shall make an annual report of its activities for the preceding fiscal year to the Governor. This report shall set forth a complete operating and financial statement covering its operations during the year. The bank shall have an audit of its books and accounts made at least once in each year by certified public accountants. The cost of the audit is considered an expense of the bank. A copy of the audit shall be filed with the Treasurer of

State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6003. Bonds and notes of the bank

1. Bonds authorized. The bank may issue its bonds from time to time in any principal amounts that it considers necessary to provide funds for any of the purposes authorized by this chapter, including:

A. The making of loans; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

A-1. The making of deposits to the revolving loan fund; [PL 1989, c. 48, §§23, 31 (NEW).]

B. The payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by the bank, whether the bonds or interest to be funded or refunded have or have not become due or subject to redemption before maturity in accordance with their terms; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The establishment or increase of reserves to secure or to pay bonds or interest on the bonds; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. All other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§23, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Bonds as general obligation bonds; additional security. Except as expressly provided otherwise in this chapter or by the bank, every issue of bonds shall be general obligations of the bank payable out of any revenues or funds of the bank, subject only to any agreements with the holders of particular bonds pledging any particular revenues or funds. Bonds that are not general obligations of the bank shall be special obligations of the bank payable solely from any revenues or funds of the bank pledged for that purpose and subject only to any agreements with the holders of particular notes and bonds pledging any particular revenues or funds. Any bonds may be additionally secured by a pledge of any grants, subsidies, contributions, funds or money from the Federal Government, the State, any governmental unit, any person or a pledge of any income or revenues, funds or money of the bank from any source.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§22, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Bank notes authorized. The bank may issue its notes for any corporate purpose of the bank from time to time, in any principal amounts that it considers necessary and renew or pay and retire or refund the notes from the proceeds of bonds or of other notes, or from any other funds or money of the bank available or to be made available for that purpose in accordance with any contract between the bank and the noteholders, not otherwise pledged.

A. The notes shall be issued in the same manner as bonds. The notes and the resolution or resolutions authorizing the notes may contain any provisions, conditions or limitations which the bonds or a bond resolution of the bank may contain. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Unless provided otherwise in any contract between the bank and the noteholders, and unless the notes have been otherwise paid, funded or refunded, the proceeds of any bonds of the bank issued, among other things, to fund such outstanding notes, shall be held, used and applied by the bank to the payment and retirement of the principal of these notes and the interest due and payable on the notes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The bank may make contracts for the future sale from time to time of the notes, under which the purchaser is committed to purchase the notes from time to time on terms and conditions stated in the contracts. The bank may pay any consideration that it determines proper for these commitments. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Bonds and notes made negotiable instruments. Whether or not the bonds or notes of the bank are of such form and character as to be negotiable instruments under the Uniform Commercial Code, article 8, the bonds and notes shall be and are made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds and notes for registration.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. General characteristics. Bonds or notes of the bank shall be authorized by resolution of the bank and may be issued in one or more series. The resolution or resolutions may provide:

A. The date or dates the bonds or notes will bear; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The time or times the bonds or notes will mature; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The rate or rates of interest per year the bonds or notes will bear; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The denomination or denominations of the bonds or notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The form of the bonds or notes, either coupon or registered; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The conversion or registration privileges carried by the bonds or notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

G. The rank or priority of the bonds or notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. The manner of execution of the bonds or notes; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

I. The sources, medium and place or places, within or outside the State, of payment; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. The terms of redemption of the bonds or notes, with or without premium. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Manner of sale. Bonds or notes of the bank may be sold at public or private sale at the time or times and at the price or prices determined by the bank.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. No further conditions required. Bonds or notes of the bank 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 proceeding or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Payment of notes. The bank may from time to time issue its notes as provided under this chapter and pay and retire or fund or refund those notes from proceeds of bonds or of other notes, or from any other funds or money of the bank available or to be made available for those purposes in accordance with any contract between the bank and the noteholders. Unless provided otherwise in any contract between the bank and the holders of notes, and unless the notes have been otherwise paid, funded or refunded, the proceeds of any bonds of the bank issued among other things, to fund those outstanding notes, shall be held, used and applied by the bank to the payments and retirement of the principal of the notes and the interest due and payable on the notes.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Taxation of interest. The bank may covenant and consent, at or before the issuance of its bonds or notes, to the inclusion of interest on any of its bonds or notes, 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 any such bonds or notes 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 of the bonds or notes under the United States Internal Revenue Code or any such subsequent law.

[PL 1989, c. 48, §§23, 31 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§21-23,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6004. Resolutions and indentures

1. Trust agreement or trust indenture authorized. In any resolution of the bank authorizing or relating to the issuance of any bonds or notes, the bank, in order to secure the payment of those bonds or notes may, by provisions in the resolution, enter into any trust agreement or trust indenture with a corporate trustee. That trustee may be any trust company or national banking association or state bank, within or outside the State, having the powers of a trust company. The provisions in the resolution constitute covenants by the bank and contracts with the holders of the bonds or notes.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Provisions of indenture, agreement or resolution. The trust agreement, indenture or the resolution providing for the issuance of the bonds or notes may pledge or assign the revenues of the bank, and may contain any provisions for protecting and enforcing the rights and remedies of the holders of the bonds and notes that are reasonable and proper and not in violation of law, including the custody, safeguarding and application of all money. The trust agreement may set forth the rights and remedies of the holders of the bonds and notes and of the trustee, and may restrict the individual right of action by the holders. The bank may provide by the trust indenture for the payment of the proceeds of the bonds and notes and the revenues to the trustee under the trust indenture or other depository, and for the method of disbursement of those proceeds and revenues, with any safeguards and restrictions that it determines.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Expenses; no separate trustee for holders. All expenses incurred in carrying out a trust indenture under this section may be treated as a part of the operating expenses of the bank. If the bonds are secured by a trust indenture, the bondholders may not appoint a separate trustee to represent them.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6005. Intent of pledge

Any pledge of revenue or other money made by the bank is valid and binding when the pledge is made. The revenues or other money so pledged and thereafter received by the bank is immediately subject to the lien of the pledge without any physical delivery of the revenues or other money. The lien of any such pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the bank, regardless of whether those parties have notice of the pledge. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the bank. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6006. Reserve fund

1. Reserve fund. The bank shall establish and maintain a reserve fund called the "Maine Municipal Bond Bank Reserve Fund" in which there shall be deposited all money appropriated by the State for the purpose of that fund, all proceeds of bonds required to be deposited in the fund by terms of any contract between the bank and its bondholders or any resolution of the bank with respect to the proceeds of bonds, any other money or funds of the bank which it determines to deposit in the fund and any other money made available to the bank only for the purposes of the fund from any other source or sources.

A. Money in the reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds secured by the reserve fund and sinking fund payments mentioned in this chapter with respect to bonds secured by the reserve fund as the interest, principal and sinking fund payments become due and payable; and for the retirement of bonds, including the payment of any redemption premium required to be paid when any bonds are redeemed or retired before maturity. Money may not be withdrawn from the fund if the withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for:

(1) Payment of interest then due and payable on bonds;

(2) Payment of the principal of bonds then maturing and payable;

(3) Sinking fund payments mentioned in this chapter with respect to bonds;

(4) The retirement of bonds in accordance with the terms of any contract between the bank and its bondholders; and

(5) The payment for which other money of the bank is not then available for payment of interest, principal or sinking fund payments or the retirement of bonds in accordance with the terms of any such contract. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§24, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. As used in this chapter, "required debt service reserve" means, as of any date of computation, the amount or amounts required to be on deposit in the reserve fund as provided by resolution of the bank. The required debt service reserve shall be, as of any date of computation, an aggregate amount equal to at least the largest amount of money, required by the terms of all contracts between the bank and holders of bonds secured by the reserve fund, to be raised in the then current or any succeeding calendar year for:

(1) The payment of interest on and maturing principal of that portion of outstanding bonds secured by the reserve fund, the proceeds of which were applied solely to the purchase of municipal securities; and

(2) Sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of those bonds. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§24, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The required debt service reserve shall be calculated on the assumption that the bonds will cease to be outstanding after the date of the computation because of the payment of those bonds at their respective maturities and the payments of the required money to sinking funds and the application of those sinking funds in accordance with the terms of all such contracts to the retirement of the bonds.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§24, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1-A. Capital reserve fund. This subsection applies to capital reserve funds.

A. The bank may establish and maintain one or more special funds called "capital reserve funds" in which there shall be deposited:

(1) All money appropriated by the State for the purpose of those funds;

(2) All proceeds of bonds required to be deposited in those funds by the terms of any contract between the bank and its bondholders or any resolution of the bank with respect to the proceeds of bonds;

(3) Any other money or funds of the bank which it determines to deposit in those funds; and

(4) Any other money made available to the bank only for the purposes of the fund from any other source or sources. [PL 1989, c. 48, §§25, 31 (NEW).]

B. Money in any capital reserve fund shall be held and applied solely:

(1) To pay the interest on and principal of bonds secured by the capital reserve fund and sinking fund payments mentioned in this chapter with respect to bonds secured by the capital reserve fund as the interest and principal becomes due and payable; and

(2) To retire bonds secured by the capital reserve fund, including the payment of any redemption premium required to be paid when any such bonds are redeemed or retired before maturity. [PL 1989, c. 48, §§25, 31 (NEW).]

C. The minimum amount of any capital reserve fund must be equal to the amounts required under the resolutions pursuant to which the bonds secured by the capital reserve fund are issued. These amounts are referred to in this chapter as the "required minimum reserve." With respect to bonds secured by a capital reserve fund for which the resolution authorizing the issuance of those bonds states that the provisions of subsection 5 apply, the required minimum reserve must be, as of any date of computation, an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the bank and its bondholders of the bonds to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of that portion of the outstanding bonds, the proceeds of which were applied solely to the purchase of municipal securities or municipal bonds and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that the bonds will cease to be outstanding after the date of the computation because of the payment of the bonds at their respective maturities and the payments of the required money to sinking funds and the application thereof in accordance with the terms of all such contracts to the retirement of the bonds. The required minimum reserve for bonds secured by a capital reserve to which the provisions of subsection 5 apply may be less than that required by this paragraph if the bank so determines and only when the reserve is applied to:

(1) Any bond or note sold to fund a municipal lease pool whose term is 5 years or less;

(2) Any bond for which no principal is paid to bondholders until final maturity; or

(3) Any loan, bond, lease or evidence of participation that has a term of 5 years or less. [PL 1991, c. 605, §13 (AMD).]

D. Money in any capital reserve fund shall not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to an amount less than the required minimum reserve for all such bonds issued and to be issued which will be secured by the capital reserve fund, except for payment of interest then due and payable on bonds secured by the capital reserve fund and the principal of bonds secured by the capital reserve fund then maturing and payable and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of the bonds, and for the retirement of bonds secured by the capital reserve fund in accordance with the terms of any contract between the bank and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds secured by the capital reserve fund other money of the bank is not then available in accordance with the terms of any such contract. [PL 1989, c. 48, §§25, 31 (NEW).]

[PL 1991, c. 605, §13 (AMD).]

2. Transfer. Money in the reserve fund at any time in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to any other fund or account of the bank.

Money in any capital reserve fund at any time in excess of the required minimum reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to any other fund or account of the bank.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§26, 31 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Investment. Money at any time in the reserve fund or any capital reserve fund may be invested in the same manner as permitted for investment of funds belonging to the State or held in the treasury.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§26, 31 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Reserve. Notwithstanding any other provision of this chapter, the bank may not issue any bonds to be secured by the reserve fund or by a capital reserve fund for which the resolution authorizing the issuance of those bonds states that subsection 5 applies unless:

A. If the bonds are to be secured by the reserve fund, there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding which are secured by the reserve fund and the bonds to be issued which will be secured by the reserve fund; or [PL 1989, c. 48, §§26, 31 (NEW).]

B. If the bonds are to be secured by a capital reserve fund for which the resolution authorizing the issuance of the bonds states that subsection 5 applies, there is in the capital reserve fund the required minimum reserve for all bonds secured by the capital reserve fund then issued and outstanding and the bonds to be issued which will be secured by the capital reserve fund. [PL 1989, c. 48, §§26, 31 (NEW).]

Nothing in this chapter prevents the bank from satisfying this requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve or required minimum reserve, as applicable. The bank may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, to increase the amount in any capital reserve fund to the required minimum reserve or to meet any higher or additional reserve as may be fixed by the bank with respect to such fund.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§26, 31 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Restoration. In order to ensure the maintenance of the required debt service reserve in the reserve fund, there shall be annually appropriated and paid to the bank for deposit in the fund, the sum, if any, certified by the chair of the bank to the Governor. On or before December 1st of each year, the chair shall make and deliver to the Governor a certificate stating the sum, if any, required to restore the reserve fund to an amount equal to the required debt service reserve and the sum or sums so certified shall be appropriated and paid to the bank during the then current state fiscal year.

In order to ensure the maintenance of the required minimum reserve in any capital reserve fund to which, at the direction of the bank pursuant to the resolution establishing the capital reserve fund, this provision applies, there shall be annually appropriated and paid to the bank for deposit in the fund, the sum, if any, certified by the chair of the bank to the Governor. On or before December 1st of each year, the chair shall make and deliver to the Governor a certificate stating the sum, if any, required to restore the fund to an amount equal to the required minimum reserve, and the sum or sums so certified shall be appropriated and paid to the bank during the then current state fiscal year.

A. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§26, 31 (RP); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§26, 31 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Valuation. In computing the amount of the required debt service reserve or the required minimum reserve, investments held as a part of those reserves shall be valued in the manner provided in the applicable bond resolution.
[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§26, 31 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Exclusions. The bank may provide from time to time by resolution for the issuance of its bonds or notes which are not secured by the reserve fund or any capital reserve fund, as set forth in the resolution authorizing its bonds or notes. The bank may, pursuant to a resolution or other agreement, establish the security for any of its bonds, including, but not limited to, policies of insurance and letters of credit, as the bank in its discretion determines necessary, desirable or convenient to further the accomplishment of the purposes of the bank. The security may, if so provided by a resolution or other agreement of the bank, to the extent set forth in the resolution or agreement, satisfy the provisions of the resolution or agreement with respect to any required debt service reserve, required minimum reserve or other reserve.
[PL 1989, c. 48, §§26, 31 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§24-26,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 605, §13 (AMD).

§6006-A. Revolving loan fund

1. Establishment; administration. A revolving loan fund is established as provided in this section.

A. There is established in the custody of the bank a special fund, to be known as the revolving loan fund, that must be used for the following purposes:

(1) To provide loans to municipalities for acquiring, designing, planning, constructing, enlarging, repairing or improving publicly owned sewage systems and sewage treatment plants as provided in Title 38, section 411 and for implementing related management programs;

(2) For remediation of municipal landfills that affect groundwater; or

(3) For any actions authorized under the federal Clean Water Act, 33 United States Code, Sections 1251 to 1387. [PL 1995, c. 564, §2 (RPR).]

B. The bank shall administer the revolving loan fund. The fund shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund shall be established and held separate and apart from any other funds or money of the State or the bank and shall be used and administered exclusively for the purpose of this section and section 5953-A. The fund shall consist of the following:

(1) Such sums as may be appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) Capitalization grants and awards made to the State or an instrumentality of the State by the United States for any of the purposes for which the fund has been established. These amounts shall be paid directly into the fund without need for appropriation by the State;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established;

(6) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and

(7) Other funds from any public or private source received for use for any of the purposes for which the fund has been established. [PL 1989, c. 48, §§27, 31 (NEW).]

[PL 1995, c. 564, §2 (AMD).]

2. Uses. The revolving loan fund may be used for one or more of the following purposes:

A. To make loans to municipalities under this section and section 5953-A; [PL 1989, c. 48, §§27, 31 (NEW).]

B. To make loans to refund bonds or notes of a municipality issued after March 7, 1985 for the purpose of financing the construction of any capital improvement or management program described in section 5953-A, subsection 1 and certified under section 5953-A, subsection 3; [PL 1989, c. 48, §§27, 31 (NEW).]

C. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement or management program described in section 5953-A, subsection 1 and certified under section 5953-A, subsection 3; [PL 1989, c. 48, §§27, 31 (NEW).]

D. To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 5953-A, subsection 1; [PL 1989, c. 48, §§27, 31 (NEW).]

E. To invest available fund balances and to credit the net interest income on those balances to the revolving loan fund; [PL 1989, c. 48, §§27, 31 (NEW).]

F. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund, or as a source of revenue to subsidize municipal loan payment obligations; [PL 1989, c. 48, §§27, 31 (NEW).]

G. To pay the costs of the bank and the Department of Environmental Protection staff associated with the administration of the revolving loan fund and projects financed by it; provided that no more than the lesser of 2% of the aggregate of the highest fund balances in any fiscal year and 4% of any capitalization grants provided by the United States for deposit in the revolving loan fund shall be used for these purposes; and [PL 1989, c. 48, §§27, 31 (NEW).]

H. To pay the costs required under the Federal Water Pollution Control Act, Title VI. [PL 1989, c. 48, §§27, 31 (NEW).]

[PL 1989, c. 48, §§27, 31 (NEW).]

3. Priorities for financial assistance. Periodically, and at least annually, the Department of Environmental Protection shall prepare and certify to the bank a project priority list of those municipalities whose publicly owned projects are eligible for financing or assistance under this section. The factors to be considered in developing the priority list shall include, but are not limited to:

A. Water supply protection; [PL 1989, c. 48, §§27, 31 (NEW).]

B. Shellfishery protection; [PL 1989, c. 48, §§27, 31 (NEW).]

C. Nuisance conditions; [PL 1989, c. 48, §§27, 31 (NEW).]

D. Fisheries protection; [PL 1989, c. 48, §§27, 31 (NEW).]

E. Facility needs, including the availability of, or likely development of, cost-effective privately owned facilities or services to meet the municipal need; and [PL 1995, c. 564, §3 (AMD).]

F. Median household income. [PL 1989, c. 48, §§27, 31 (NEW).]
[PL 1995, c. 564, §3 (AMD).]

4. Eligibility for financial assistance. No financial assistance for a project may be granted under this section until the Department of Environmental Protection certifies to the bank that the project is eligible for immediate financing under this section and is on the priority list prepared under subsection 3.
[PL 1989, c. 48, §§27, 31 (NEW).]

5. Establishment of accounts. The bank may establish accounts and subaccounts within the revolving fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion or portions of the revolving loan fund as security for bonds issued by the bank for deposit in the revolving loan fund and to be invested for the benefit of specified projects receiving financial assistance from the revolving loan fund.
[PL 1989, c. 48, §§27, 31 (NEW).]

SECTION HISTORY

PL 1989, c. 48, §§27,31 (NEW). PL 1995, c. 564, §§2,3 (AMD).

§6006-B. Safe drinking water revolving loan fund

1. Establishment; administration. A safe drinking water revolving loan fund is established as provided in this section.

A. There is established in the custody of the bank a special fund to be known as the safe drinking water revolving loan fund to provide financial assistance under subsection 2 for the acquisition, design, planning, construction, enlargement, repair, protection or improvement of drinking water supplies or treatment facilities including any of those actions required under the federal Safe Drinking Water Act of 1996, 42 United States Code, Sections 300f to 300j-9, supplement 1997, as amended, hereinafter referred to as the federal Safe Drinking Water Act of 1996. [PL 1997, c. 705, §15 (AMD).]

B. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purpose of this section and section 5953-B. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) Capitalization grants and awards made to the State or an instrumentality of the State by the Federal Government for any of the purposes for which the fund has been established. These amounts must be paid directly into the fund without need for appropriation by the State;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund is established;

(6) The proceeds of notes or bonds issued by the Maine Public Utilities Financing Bank under Title 35-A, chapter 29 for the purpose of deposit in the fund;

(7) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and

(8) Other funds from any public or private source received for use for any of the purposes for which the fund has been established. [PL 1991, c. 605, §14 (NEW).]

C. For the purposes of this section, the term "public water system" is the same as defined in Title 22, section 2601, subsection 8 and "community water system" and "noncommunity water system" are the same as defined in Title 22, section 2660-B. [PL 1997, c. 705, §16 (RPR).]

[PL 1997, c. 705, §§15, 16 (AMD).]

2. Uses. The revolving loan fund may be used for one or more of the following purposes:

A. To make loans to public water systems under this section and section 5953-B; [PL 1997, c. 705, §17 (AMD).]

B. To make loans to a municipality, an intermunicipal or interstate agency or other eligible participant as specified in the federal Safe Drinking Water Act of 1996 to buy or refinance bonds or notes issued after July 1, 1993 for the purpose of financing the construction of any capital improvement or management program described in section 5953-B, subsection 1 and certified under section 5953-B, subsection 3; [PL 1997, c. 705, §17 (AMD).]

C. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a public water system for the purpose of financing the construction of any capital improvement described in section 5953-B, subsection 1 and certified under section 5953-B, subsection 3; [PL 1997, c. 705, §17 (AMD).]

D. To guarantee or insure, directly or indirectly, funds established by public water systems for the purpose of financing construction of any capital improvement described in section 5953-B, subsection 1 and certified under section 5953-B, subsection 3; [PL 1997, c. 705, §17 (AMD).]

E. To invest available fund balances and to credit the net interest income on those balances to the revolving loan fund; [PL 1991, c. 605, §14 (NEW).]

F. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund or loaned to eligible participants in the programs financed with the fund, or as a source of revenue to subsidize municipal loan payment obligations; [PL 1991, c. 605, §14 (NEW).]

G. To pay the costs of the bank and the Department of Human Services associated with the administration of the revolving loan fund and projects financed by it, as long as such costs are paid from a separate, dedicated and identifiable administrative account into which not more than 4% or such greater amount as may be permitted under federal law as part of the federal Safe Drinking Water Act of 1996 of each capitalization grant allotment provided by the Federal Government, and other amounts, must be deposited; [PL 1997, c. 705, §17 (AMD).]

H. To pay the costs required, authorized or funded under the federal Safe Drinking Water Act of 1996, regarding the treatment of drinking water or other federal law or program that provides money for deposit to the fund for the purposes of this section; and [PL 1997, c. 705, §17 (AMD).]

I. To provide training and technical assistance to public water systems serving a population of 10,000 or fewer through the statewide rural water association. The statewide rural water association may use an amount equal to 1% of the federal capitalization grant. Training and technical assistance must be consistent with the annual Department of Health and Human Services public water system supervision, or "PWSS," work plan. [PL 1995, c. 665, Pt. II, §2 (NEW); PL 1995, c. 665, Pt. II, §3 (AFF); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1997, c. 705, §17 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion or portions of the fund as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.
[PL 1991, c. 605, §14 (NEW).]

4. Priorities for financial assistance. At least annually, the Department of Health and Human Services shall prepare and certify to the bank a project priority list of those community and nonprofit noncommunity public water system projects eligible for financing or assistance under this section. The factors to be considered in developing the priority list must include, but are not limited to:

A. Projects that address serious risk to human health; [PL 1997, c. 705, §18 (NEW).]

B. Projects necessary to ensure compliance with the federal Safe Drinking Water Act of 1996; [PL 1997, c. 705, §18 (NEW).]

C. Projects to assist public water systems in need on a per household basis according to the State's affordability criteria; and [PL 1997, c. 705, §18 (NEW).]

D. Projects that meet factors used in developing the priority list and that are prepared to proceed to construction. [PL 1997, c. 705, §18 (NEW).]

[PL 1997, c. 705, §18 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

5. Eligibility for financial assistance. Financial assistance for a project may not be granted under this section until the Department of Health and Human Services has certified to the bank that the project is eligible for immediate financing under this section and is on the priority list under subsection 4.
[PL 1997, c. 705, §18 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1991, c. 605, §14 (NEW). PL 1995, c. 665, §§II1,2 (AMD). PL 1995, c. 665, §II3 (AFF). PL 1997, c. 705, §§15-18 (AMD). PL 2003, c. 689, §B6 (REV).

§6006-C. Municipal lease finance program

1. Establishment; administration. A municipal lease finance program under the jurisdiction and direction of the bank is established to provide or assist municipalities and governmental entities in the financing of leases by which a municipality may acquire or obtain the right to use personal or real property. The municipal lease finance program must provide methods of direct or indirect financing, insurance, borrowing, credit enhancement and other financial tools for the lease, lease-purchase, rental or right of use of any real or personal property or other authorized activity of a municipality.
[PL 1991, c. 605, §14 (NEW).]

2. Powers. The bank may make loans to municipalities or borrow money on behalf of municipalities for any of the purposes of this section. The bank may purchase, refinance or enter into leases with or on behalf of municipalities. The bank may purchase or refinance for or on the behalf of any municipality any municipal lease that may be held or issued by any 3rd party. The bank may issue its bonds or notes for the purchase of municipal leases on behalf of a municipality or group of municipalities or for the establishment of a pool of funds to be used for the purchase, financing or other means of acquisition of leases used by a municipality or group of municipalities. The bank shall establish prudent standards for the terms and conditions of any lease financing made available to a municipality or group of municipalities. Terms and conditions include, but are not limited to, the general obligation of the municipality, and liens on any real or personal property held by the municipality whether being financed by the specific lease or not, and sinking funds.
[PL 1991, c. 605, §14 (NEW).]

3. Application; eligibility. The bank may prescribe and require an application or procedure for a municipality to participate in any form of lease financing assistance made available under this section. An application must include any information that the bank decides is necessary for implementing this section, including, but not limited to, supporting documents, certifications, feasibility studies, financial data, utilization studies or other applicable information. A municipality is not eligible to participate in any lease finance assistance made available under this section unless, in the sole judgment of the bank, the municipality has satisfactorily demonstrated that it can assure that it will pay the principal, interest, fees and related charges on the bond, debt or other instrument issued by the bank on behalf of the municipalities or purchased by the bank from the municipality as well as the costs for operation and maintenance of any real or personal property acquired or made available for use by the municipality by virtue of the lease finance assistance. Satisfactory assurance can be demonstrated if a municipality has:

A. Established a method of payment by assessment, rate, charges or other mechanism satisfactory to the bank; or [PL 1991, c. 605, §14 (NEW).]

B. Provided collateral sufficient to assure payment. [PL 1991, c. 605, §14 (NEW).]

[PL 1991, c. 605, §14 (NEW).]

4. State not liable. Bonds, notes, leases or other forms of debt or liability entered into or issued by the bank under this section are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or debts, liability or liabilities on behalf of the State or constitute a pledge of the faith and credit of the State. Each bond, note, lease or other evidence of debt or liability entered into by the bank must contain a statement to the effect that the bank is obligated to pay the principal, interest, redemption premium, if any, and other amounts payable solely from the sources pledged for that purpose by the bank, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal, interest, premium, charge, fee or other amount on the bond, note, lease or other form of indebtedness, as the case may be.

[PL 1991, c. 605, §14 (NEW).]

5. Lease finance agreement. Lease financing and refinancing, lease purchase, loans and other forms of indebtedness or obligations incurred by a municipality due to the bank under the terms of this section must be evidenced by and be made in accordance with the terms and conditions specified in a lease finance agreement to be executed by the bank and the municipality or group of municipalities. The lease finance agreement must specify, among other things, the terms and conditions for the disbursement of lease finance proceeds, the term and interest rate of the lease, the scheduling of lease payments or bond payments as the case may be, and any other terms and conditions determined necessary or desirable by the bank.

[PL 1991, c. 605, §14 (NEW).]

SECTION HISTORY

PL 1991, c. 605, §14 (NEW).

§6006-D. Municipal Investment Trust Fund

1. Establishment; administration. The Municipal Investment Trust Fund, referred to in this section as the "fund," is established in the custody of the bank as a special fund as provided in this section.

A. The purpose of the fund is to provide financial assistance under subsection 2 for the acquisition, design, planning, construction, enlargement, repair, protection, improvement or restoration of public service infrastructure and downtown improvements and for the acquisition of open space. [PL 2005, c. 290, §1 (AMD).]

B. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and

administered exclusively for the purpose of this section and section 5953-D. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time-to-time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) Capitalization grants and awards made to the State or an instrumentality of the State by the Federal Government for any of the purposes for which the fund has been established. These amounts must be paid directly into the fund without need for appropriation by the State;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established;

(6) The proceeds of notes or bonds issued by the State for the purpose of deposit in the fund;

(7) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and

(8) Other funds from any public or private source received for use for any of the purposes for which the fund has been established. [RR 1993, c. 2, §30 (COR).]

[PL 2005, c. 290, §1 (AMD).]

2. Uses. The fund may be used for one or more of the following purposes:

A. To make grants and loans to municipalities under this section and section 5953-D; [RR 1993, c. 2, §31 (COR).]

B. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement described in section 5953-D, subsection 1 or 1-A; [PL 2003, c. 288, §4 (AMD).]

C. To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 5953-D, subsection 1 or 1-A; [PL 2003, c. 288, §4 (AMD).]

D. To invest available fund balances and to credit the net interest income on those balances to the fund; [PL 1993, c. 721, Pt. D, §5 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

E. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund or loaned to eligible participants in the programs financed with the fund, or as a source of revenue to subsidize municipal loan payment obligations; and [PL 1993, c. 721, Pt. D, §5 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

F. To pay the costs of the bank associated with the administration of the fund and projects financed by it as long as no more than 2% of the aggregate of the highest fund balance in any fiscal year is used for these purposes. [PL 1993, c. 721, Pt. D, §5 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

[PL 2003, c. 288, §4 (AMD).]

3. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion of the fund for grants and as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

[PL 1993, c. 721, Pt. D, §5 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

SECTION HISTORY

RR 1993, c. 2, §§30,31 (COR). PL 1993, c. 721, §D5 (NEW). PL 1993, c. 721, §H1 (AFF). PL 1999, c. 776, §14 (AMD). PL 2003, c. 288, §4 (AMD). PL 2005, c. 290, §1 (AMD).

§6006-E. Maine school facilities finance lease-purchase program

In addition to and in furtherance of any other assistance available to a school administrative unit in this chapter, the bank, in cooperation with the Department of Education, shall establish a lease-purchase program for buildings to be used by all school administrative units whose school facility lease-purchase payments receive reimbursement, subsidy or other payment from the State. For the purposes of this section, a lease-purchase program is a system for awarding leases for a school administrative unit pursuant to a competitive bidding process. [PL 1999, c. 81, §15 (AMD).]

SECTION HISTORY

PL 1997, c. 787, §13 (NEW). PL 1999, c. 81, §15 (AMD).

§6006-F. School Revolving Renovation Fund

1. Fund established. The School Revolving Renovation Fund, referred to in this section as the "fund," is established in the custody of the bank.
[PL 1997, c. 787, §13 (NEW).]

2. Administration. The bank shall administer and invest the fund. The fund must be established and held separate and apart from any other funds or money of the State or the bank and must be used and administered exclusively for the purposes authorized in this section. The fund consists of:

A. Sums that may be appropriated by the Legislature or transferred to the fund by the Treasurer of State; [PL 1997, c. 787, §13 (NEW).]

B. Principal and interest received from the repayment of loans made from the fund; [PL 1997, c. 787, §13 (NEW).]

C. Capitalization grants and awards made to the State or an instrumentality of the State by the United States for any of the purposes for which the fund has been established. These amounts may be paid directly into the fund without appropriation by the State and the bank is designated as the recipient for the State of any such funds; [PL 1997, c. 787, §13 (NEW).]

D. Interest earned from the investment of fund balances; [PL 1997, c. 787, §13 (NEW).]

E. The proceeds of any bonds or notes issued by the State or the bank sold for the purpose of deposit in the fund; [PL 1997, c. 787, §13 (NEW).]

F. Funds from school construction audit recoveries; and [PL 1997, c. 787, §13 (NEW).]

G. Other funds and gifts in kind or cash from any public or private source received for use for any of the purposes for which the fund has been established and that the bank and the Department of Education may solicit from any 3rd parties such as foundations or corporations, including the use of tax credits as available to support activities authorized for the fund. [PL 1997, c. 787, §13 (NEW).]
[PL 1997, c. 787, §13 (NEW).]

3. Purposes. The fund may be used:

A. To make loans to school administrative units for school repair and renovation.

(1) The following repair and renovation needs receive Priority 1 status:

(a) Repair or replacement of a roof on a school building;

(b) Bringing a school building into compliance with the federal Americans with Disabilities Act, 42 United States Code, Section 12101 et seq.;

(c) Improving air quality in a school building;

(d) Removing or abating hazardous materials in a school building, including, but not limited to, water lead abatement or mitigation pursuant to Title 22, section 2604-B; and

(f) Undertaking other health, safety and compliance repairs, including installations or improvements necessary to increase school facility security.

(2) Repairs and improvements related to a school building structure, windows and doors and water or septic systems, other than water lead abatement or mitigation pursuant to Title 22, section 2604-B, receive Priority 2 status.

(3) Repairs and improvements related to energy and water conservation receive Priority 3 status.

(4) Upgrades of learning spaces in school buildings, including renovations to retrofit learning spaces for public preschool programs, receive Priority 4 status.

(5) The Commissioner of Education may approve other necessary repairs; [PL 2019, c. 343, Pt. ZZZZ, §1 (AMD).]

B. To make loans to a school administrative unit to finance expenditures incurred after June 1, 1998 for repairs or renovations authorized under paragraph A; [PL 2011, c. 153, §2 (AMD).]

C. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a school administrative unit for the purpose of financing any repair authorized under paragraph A; [PL 2011, c. 153, §3 (AMD).]

D. To guarantee or insure, directly or indirectly, funds established by a school administrative unit for the purpose of financing any repair authorized under paragraph A; [PL 1997, c. 787, §13 (NEW).]

E. To deposit with a lending institution or with a trustee bank available fund balances to offset loan balances for school administrative districts undertaking projects authorized by paragraph A; [PL 2011, c. 153, §4 (AMD).]

F. To invest available fund balances and credit the net interest income on those balances to the fund; [PL 1997, c. 787, §13 (NEW).]

G. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund, or if the proceeds of the sale of the obligations are used for the purposes authorized in paragraph A, or as a source of revenue to subsidize the school administrative unit loan payment obligations; [PL 2011, c. 153, §5 (AMD).]

H. To pay the costs of the bank and the Department of Education associated with the administration of the fund and projects financed by the fund, except that no more than the lesser of 2% of the aggregate of the highest fund balances in any fiscal year and 4% of the combined value of any capitalization grants provided by the United States for deposit in the fund may be used for these purposes. The Commissioner of Education is authorized to receive revenue from the fund administered by the bank. Funds provided to the Department of Education from the fund must be deposited in a nonlapsing dedicated account to be used to carry out the purposes of this section; and [PL 2005, c. 683, Pt. A, §54 (RPR).]

I. [PL 2005, c. 683, Pt. A, §55 (RP).]

J. To reimburse school administrative units for costs incurred for Priority 1 status health and safety projects described in paragraph A, subparagraph (1) and approved by the Commissioner of Education. The amount of the reimbursement must be determined in accordance with the school

administrative unit's state share percentage as provided in subsection 6. [PL 2011, c. 153, §6 (AMD).]

[PL 2019, c. 343, Pt. ZZZZ, §1 (AMD).]

4. Priorities. Periodically, and at least annually, the Department of Education shall prepare and certify to the bank a project priority list of those school administrative units whose projects are eligible for loans under this section. In establishing the priority list, the department shall grant special consideration to projects that include urgent health and safety needs. The department shall submit with the list the factors considered when determining the priorities.

[PL 1997, c. 787, §13 (NEW).]

5. Eligibility terms. The bank and the Department of Education shall develop by rule the terms of repayment of loans. A loan made pursuant to this section may not carry an interest rate higher than 0%. A loan may be made only if a project is certified by the Department of Education as eligible for financing under this section and is on the priority list prepared under subsection 4. The repayment period may vary depending upon the financial condition of a school administrative unit as identified by the Department of Education.

[PL 1997, c. 787, §13 (NEW).]

6. Forgiveness of principal payments. The fund must provide direct grants by forgiving the principal payments of a loan for an eligible school administrative unit. The amount of the forgiveness of principal payments must be determined by the school administrative unit's state share percentage as determined in Title 20-A, section 15672, subsection 31, not to exceed 70% and not less than 30%.

A. [PL 2011, c. 153, §7 (RP).]

B. [PL 2011, c. 153, §7 (RP).]

C. [PL 2011, c. 153, §7 (RP).]

[PL 2011, c. 153, §7 (AMD).]

7. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion or portions of the fund as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

[PL 1997, c. 787, §13 (NEW).]

8. Rules. The Department of Education and the bank shall adopt rules necessary to implement this section. Rules adopted by the Department of Education and the bank to implement this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 787, §13 (NEW).]

SECTION HISTORY

PL 1997, c. 787, §13 (NEW). PL 1999, c. 81, §16 (AMD). PL 2001, c. 439, §OOOO2 (AMD). PL 2005, c. 2, §D65 (AMD). PL 2005, c. 2, §§D72,74 (AFF). PL 2005, c. 12, §WW18 (AFF). PL 2005, c. 272, §§1,2 (AMD). PL 2005, c. 386, §§L2,3 (AMD). PL 2005, c. 683, §§A53-55 (AMD). PL 2011, c. 153, §§1-7 (AMD). PL 2017, c. 389, §1 (AMD). PL 2019, c. 158, §2 (AMD). PL 2019, c. 343, Pt. ZZZZ, §1 (AMD).

§6006-G. TransCap Trust Fund

1. Establishment; purposes. The TransCap Trust Fund, referred to in this section as "the fund," is established in the custody of the bank to provide transportation capital investment for the Department of Transportation and municipalities in accordance with this section. The purpose of the fund is to provide financial assistance for the planning, design, acquisition, reconstruction and rehabilitation of

transportation capital improvements of all modes including improvements that will forward the capital goals set forth in Title 23, section 73, subsection 7.
[PL 2011, c. 610, Pt. B, §3 (AMD).]

2. Administration. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purpose of this section. The fund consists of the following:

A. Sums that are transferred to the fund from time to time by the Treasurer of State pursuant to Title 36, section 2903, subsection 6 and Title 36, section 3203, subsection 4; [PL 2009, c. 652, Pt. A, §43 (AMD).]

B. Sums transferred to the fund from time to time by the Treasurer of State pursuant to Title 29-A, section 453, subsection 2; Title 29-A, section 501, subsection 1; Title 29-A, section 504, subsection 1; and Title 29-A, section 603, subsection 1; and [PL 2009, c. 411, §1 (AMD).]

C. Other revenues or funds including:

(1) Principal and interest received from the repayment of loans made from the fund;

(2) Capitalization grants and awards made to the State or an instrumentality of the State by the Federal Government for any of the purposes for which the fund has been established. These amounts must be paid directly into the fund without need for appropriation by the State;

(3) Interest earned from the investment of fund balances;

(4) Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established;

(5) The proceeds of notes or bonds issued by the State for the purpose of deposit in the fund;

(6) The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; and

(7) Other funds from any public or private source received for use for any of the purposes for which the fund has been established. [PL 2007, c. 470, Pt. D, §1 (NEW).]

[PL 2009, c. 652, Pt. A, §43 (AMD).]

3. Bond terms; authorized levels. Bonds issued pursuant to this section may not have terms of more than 15 years. Commencing with the budget presented for the fiscal year beginning July 1, 2009, each new authorization of TransCap revenue bonding must be presented for review and approval by the Legislature as part of the Highway Fund budget, except that review and approval by the Legislature is not required for TransCap revenue bonds issued to refund previously issued TransCap revenue bonds that have been issued with approval by the Legislature, if the issuance of those refunding bonds results in net present value savings and those refunding bonds have a final maturity date that is not later than the date that is 15 years after the date of issuance of the TransCap revenue bonds being refunded.
[PL 2015, c. 268, Pt. J, §1 (AMD).]

4. Uses. Revenues deposited in the fund from sources enumerated in the Constitution of Maine, Article IX, Section 19 may be used or applied only in accordance with that provision. Within this limitation, the fund may be used for one or more of the following purposes:

A. To make grants and loans to the Department of Transportation and municipalities under this section, except that such grants may be used only for capital projects that have an anticipated useful life of at least 10 years and such bonds may be used only for capital projects that have an anticipated useful life of at least as long as the bond term; [PL 2009, c. 411, §2 (AMD); PL 2009, c. 413, Pt. X, §1 (AMD).]

B. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by the State for the purpose of financing capital improvements that will forward the capital goals set forth in Title 23, section 73, subsection 7; [PL 2011, c. 610, Pt. B, §4 (AMD).]

C. To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing any capital improvements described in Title 23, section 1803-B; [PL 2007, c. 470, Pt. D, §1 (NEW).]

D. To invest available fund balances and to credit the net interest income on those balances to the fund; [PL 2007, c. 470, Pt. D, §1 (NEW).]

E. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund or loaned to eligible participants in the programs financed with the fund or as a source of revenue to subsidize municipal loan payment obligations; and [PL 2007, c. 470, Pt. D, §1 (NEW).]

F. To pay the costs of the bank associated with the administration of the fund and projects financed by it as long as no more than 2% of the aggregate of the highest fund balance in any fiscal year is used for these purposes. [PL 2007, c. 470, Pt. D, §1 (NEW).]

[PL 2011, c. 610, Pt. B, §4 (AMD).]

5. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion of the fund for grants and as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

[PL 2007, c. 470, Pt. D, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 470, Pt. D, §1 (NEW). PL 2009, c. 411, §§1, 2 (AMD). PL 2009, c. 413, Pt. X, §1 (AMD). PL 2009, c. 652, Pt. A, §43 (AMD). PL 2011, c. 610, Pt. B, §§3, 4 (AMD). PL 2015, c. 268, Pt. J, §1 (AMD).

§6006-H. State Water and Wastewater Infrastructure Fund

1. Establishment; purposes. The State Water and Wastewater Infrastructure Fund, referred to in this section as "the fund," is established as provided in this section.

A. The fund is established in the custody of the bank as a special fund to provide financial assistance for capital investment in public water and wastewater infrastructure. For the purposes of this section, "public water and wastewater infrastructure" includes but is not limited to public water systems, drinking water supplies and treatment facilities, public wastewater systems and treatment facilities and water pollution abatement systems. The fund may also be used to provide financial assistance for capital investment in private and commercial wastewater systems as allowed under Title 38, sections 411 and 411-A. [PL 2019, c. 423, §1 (AMD).]

B. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purpose of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) The proceeds of notes or bonds issued by the State for the purpose of deposit in the fund;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund is established; and

(6) Other funds from any public or private source received for use for any of the purposes for which the fund has been established. [PL 2009, c. 377, §2 (NEW).]

[PL 2019, c. 423, §1 (AMD).]

2. Uses. The fund may be used for one or more of the following purposes:

A. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by the State for the purpose of financing capital investment in water and wastewater infrastructure through the fund; [PL 2009, c. 377, §2 (NEW).]

B. To provide funds for capital investment in water and wastewater infrastructure through the Maine Drinking Water Fund, established in Title 22, section 2610, and the Maine Clean Water Fund, established in Title 38, section 411-C. Transfers to these funds must be made in consultation with the agencies administering those funds and must be secondary to the repayment of notes or bonds issued pursuant to paragraph A; [PL 2009, c. 377, §2 (NEW).]

C. To provide a state match for federal funds provided to the State Revolving Loan Fund established in section 6006-A and the safe drinking water revolving loan fund established in section 6006-B; [PL 2009, c. 377, §2 (NEW).]

D. To invest available fund balances and to credit the net interest income on those balances to the fund; [PL 2009, c. 377, §2 (NEW).]

E. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund; and [PL 2009, c. 377, §2 (NEW).]

F. To pay the costs of the bank associated with the administration of the fund and projects financed by it as long as no more than 2% of the aggregate of the highest fund balance in any fiscal year is used for these purposes. [PL 2009, c. 377, §2 (NEW).]

[PL 2009, c. 377, §2 (NEW).]

3. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion of the fund for grants and as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

[PL 2009, c. 377, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 377, §2 (NEW). PL 2019, c. 423, §1 (AMD).

§6007. General fund

1. General fund established; money deposited. The bank shall establish and maintain a fund called the "general fund" which shall consist of and in which there shall be deposited:

A. Fees received or charges made by the bank for the use of its services or facilities; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any money which the bank transfers to the general fund from the reserve fund or any capital reserve fund under section 6006, subsection 2; [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§28, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Money received by the bank as:

(1) Payments of principal of or interest on municipal securities purchased by the bank;

(2) Proceeds of the sale of any municipal securities or investment obligations of the bank; and

(3) Proceeds of the sale of bonds or notes of the bank and required under the terms of any resolution of the bank or contract with the holders of its bonds or notes to be deposited in the general fund; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Any money required under the terms of any resolution of the bank or contract with the holders of its bonds or notes to be deposited in the general fund; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Any money transferred to the general fund from any other fund or made available by the State for the purpose of the general fund or for the operating expenses of the bank. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§28, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Use of general fund. Any money in the general fund may, subject to any contracts between the bank and its bondholders or noteholders, be transferred to the reserve fund or any capital reserve fund. If it is not so transferred, the money shall be used to pay the principal of or interest on bonds or notes of the bank when the principal or interest becomes due and payable, whether at maturity or upon redemption, including the payment of any premium upon redemption before maturity.

A. Any money available in the general fund may also be used for:

(1) The purchase of municipal securities;

(2) The purchase or redemption of its bonds or notes. Any such bonds purchased for retirement shall be thereupon cancelled; and

(3) All other purposes of the bank including the payment of its operating expenses.

(a) No amount may be expended for the bank's operating expenses in any year out of the general fund or from any account in that fund established for that purpose, in excess of the amount provided for the bank's operating expenses by the annual budget for that year or any amendment of the annual budget in effect at the time of the payment or expenditure for operating expenses. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The bank may create and establish in the general fund any accounts which in the opinion of the bank are necessary, desirable or convenient for the purposes of the bank under this chapter.

(1) The bank may establish an account in the general fund for the purpose of paying its operating expenses. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 48, §§29, 31 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 48, §§28,29,31 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6008. Additional reserves and funds

The bank may establish any additional and further reserves or any other funds or accounts that are, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank to comply with the provisions of any agreement made by or any resolution of the bank. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6009. Application of money

Money or investments in any fund or account of the bank established or held for any bonds, notes, indebtedness or liability to be paid, funded or refunded by the issuance of bonds or notes shall, unless the resolution authorizing the bonds or notes provides otherwise, be applied to the payment or retirement of those bonds, notes, indebtedness or liability, and to no other purpose. If there is any money in any such fund or account in excess of the amount required for the payment, funding or refunding, that money may be removed from the fund or account, but only to the extent that the money or investments remaining in the fund or account are not less than the outstanding bonds, notes, indebtedness or liability of the bank to be paid, funded or refunded and for which the fund or account was established or held. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6010. Purchase of bonds and notes of bank

The bank may purchase bonds or notes of the bank out of any funds or money of the bank available for that purpose. The bank may hold, cancel or resell these bonds or notes subject to and in accordance with agreements with holders of its bonds or notes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6011. Bonds as legal investments and security

Notwithstanding any restrictions contained in any other law, the State and all public officers, governmental units and agencies of the State, all national banking associations, state banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or notes issued by the bank under this chapter. These bonds or notes are authorized security for any and all public deposits. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6012. Tax exemptions

All property of the bank and all bonds and notes issued under this chapter are deemed to constitute essential public and governmental purposes and the property and the bonds and notes so issued, their transfer and the income from those bonds and notes, including any profits made on the sale of the bonds or notes, are at all times exempt from taxation within the State. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6013. Insurance or guaranty

1. Insurance or guaranty authorized. The bank may obtain any insurance or guaranty from any department or agency of the United States or nongovernmental insurer, as to, or of, or for, the payment or repayment of, interest or principal, or both, or any part of the interest and principal on:

A. Any bonds or notes issued by the bank; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any municipal securities of governmental units purchased or held by the bank under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Contracts and agreements for insurance. Notwithstanding any other provisions of this chapter, the bank may enter into any agreement or contract with respect to any insurance or guaranty under this section, except to the extent that the agreement or contract would in any way impair or interfere with the bank's ability to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the bank.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6013-A. Maine Municipal Bond Insurance Fund

1. Establishment. The Maine Municipal Bond Insurance Fund is established in the custody of the bank and under its jurisdiction and direction to provide credit enhancement in the form of bond insurance to municipalities, state instrumentalities and other governmental units on debt issued by them in the form of bonds, notes or other evidences of indebtedness.

[PL 1991, c. 605, §14 (NEW).]

2. Administration. The bank shall administer the Maine Municipal Bond Insurance Fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate and apart from any other

funds or money of the State or the bank and must be used and administered exclusively for the purpose of this section. The fund consists of the following:

A. Sums that are appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State; [PL 1991, c. 605, §14 (NEW).]

B. Premiums, fees, charges, assessments received from municipalities that are obtaining directly or indirectly, in whole or in part, credit enhancement or other benefit from use of the fund; [PL 1991, c. 605, §14 (NEW).]

C. Interest or other gains realized from the investment of fund balances; [PL 1991, c. 605, §14 (NEW).]

D. Private gifts, bequests and donations made to the State for any of the purposes for which the fund has been established; [PL 1991, c. 605, §14 (NEW).]

E. The proceeds of notes or bonds issued by the bank for the purpose of deposit in the fund; [PL 1991, c. 605, §14 (NEW).]

F. Other funds from any public or private source received for use for any of the purposes for which the fund has been established; [PL 1991, c. 605, §14 (NEW).]

G. Other funds from any public or private source received as part of an agreement with the bank for a joint venture undertaken for any of the purposes for which the fund has been established; and [PL 1991, c. 605, §14 (NEW).]

H. Grants, awards or other payments made to the State or an instrumentality of the State by the United States for any of the purposes for which the fund has been established. These amounts must be paid directly into the fund without need for appropriation by the State. [PL 1991, c. 605, §14 (NEW).]

[PL 1991, c. 605, §14 (NEW).]

3. Use and maintenance of the fund. The Maine Municipal Bond Insurance Fund must be used and maintained in the following manner.

A. All money held in the fund may be used only to make payments pursuant to bond insurance contracts, to pay any or all operating expenses of the administration and operation of the Maine Municipal Bond Insurance Fund and to maintain the fund at an amount equal to the minimum insurance reserve. The minimum insurance reserve is that amount determined by actuarial study solicited by the bank as being necessary and prudent for the operation of the program. The bank may not enter into any contract for bond insurance unless it certifies that at the time of execution the amounts of money required to meet reserve minimums, as determined by the most recent actuarial study, are in the fund or will be deposited in the fund as part of the execution of the contract. Any money in the fund in excess of that needed to maintain the minimum insurance reserve may be used by the bank for any of its authorized activities. [PL 1991, c. 605, §14 (NEW).]

B. To ensure the maintenance of the fund, a required minimum reserve, valued at cost, market, amortized value or other methods as determined proper by the actuarial method, must be determined. An amount equal to the determined required minimum reserve must be annually appropriated and paid for deposit in the fund. The amount of the minimum reserve deposit, if any, must be certified by the executive director of the bank to the Governor as the amount necessary to restore any fund to an amount equal to the required minimum reserve for the average aggregate amount of bond insurance contracts outstanding during the 12-month period prior to certification. [PL 1991, c. 605, §14 (NEW).]

[PL 1991, c. 605, §14 (NEW).]

4. Operation and eligibility. The bond insurance program shall operate, determine eligibility and make payments as follows.

A. The bank is authorized to operate a bond insurance program and may:

(1) Establish fund insurance contracts;

(2) Charge and collect premiums;

(3) Make appropriate payments;

(4) Sell bonds and notes of the bank, regardless of any other limitations or restrictions in this chapter, the proceeds of which may be used to meet the minimum reserve requirement of the Maine Municipal Bond Insurance Fund authorized and created by this section; and

(5) Do all other things necessary, proper or desirable to administer and operate a municipal bond insurance program. [PL 1991, c. 605, §14 (NEW).]

B. The bond insurance program may provide bond insurance to any public issuer of debt, including governmental units, municipalities, instrumentalities of the State, and the State. The bank may establish an application or procedure, requesting such information as it considers necessary or desirable, for eligible participants to apply for the benefits of the program. Acceptance of an applicant for participation in the program is in the sole judgment of the bank. Participation in the program must be evidenced by and made in accordance with the terms and conditions specified in a contract of insurance to be executed by the bank and the participating unit. The contract of insurance must state the terms and conditions under which insurance coverage is provided, the premiums, payments or assessments that may be due and payable or called for under the terms of the contract, the schedule upon which payments must be made and any other terms and conditions determined as necessary or desirable by the bank. [PL 1991, c. 605, §14 (NEW).]

C. Contracts for insurance entered into under this section are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any obligation or obligations, debt or debts or liability or liabilities on behalf of the State or constitute a pledge of the faith and credit of the State. All obligations to pay under the terms of any contracts of insurance entered into or issued under this chapter are payable solely from the revenues or funds pledged in the Maine Municipal Bond Insurance Fund and not from any other revenues, funds or assets of the bank or the State. There is no obligation implied, stated or expressed in this section from the bank or the State to make any payment to or on behalf of any 3rd party, including, but not limited to, bond holders, coinsurers, program participants or any other party whatsoever, from any source other than the bond insurance fund created in this section. Each bond insurance contract must contain on its face a statement to the effect that the bank is obligated to make any payments called for in the contract only from the assets and revenues available in the bond insurance fund and not from any other revenues or assets of the bank and that neither the full faith and credit of the bank or the State nor the taxing power of the State is pledged to make any payments of any type or kind called for in the contract of bond insurance. [PL 1991, c. 605, §14 (NEW).]

[PL 1991, c. 605, §14 (NEW).]

SECTION HISTORY

PL 1991, c. 605, §14 (NEW).

§6014. Governmental unit intercept

The Treasurer of State may receive from the Federal Government any amount of money as appropriated, allocated, granted, turned over or in any way provided for the purposes of the bank or this chapter. Unless otherwise directed by federal authority, these amounts must be credited to and deposited in the General Fund and are available to the bank. [PL 1997, c. 787, §14 (AMD).]

The Treasurer of State shall pay and deposit in the General Fund and make available to the bank, any funds or money in the treasurer's custody or control whether the funds or money is available because of any grant, allocation or appropriation by the Federal Government or the State or any state agency to assist any governmental unit in paying its municipal securities or school construction loan liability under section 5953-E, referred to in this section as "loan liability," owned or held by the bank, or required by the terms of any other law to be paid to holders or owners of municipal securities or loan liability upon failure or default of a governmental unit to pay the principal of or interest on its municipal securities or loan liability when due and payable, to the extent that any such funds or money is applicable with respect to municipal securities or loan liability of a particular governmental unit that are then owned or held by the bank and as to which that governmental unit has failed or defaulted to make payment of principal or interest as and when due and payable. [PL 1997, c. 787, §14 (AMD).]

To the extent that the Treasurer of State is the custodian of any funds or money due or payable to a governmental unit at any time after written notice to the Treasurer of State from the bank to the effect that the governmental unit has not paid or is in default as to the payment of principal of or interest on any municipal securities or loan liability of that governmental unit then held or owned by the bank, the Treasurer of State shall withhold the payment of such funds or money from the governmental unit until the amount of the principal or interest then due and unpaid has been paid to the bank, or the Treasurer of State has been advised that arrangements, satisfactory to the bank, have been made for the payment of the principal and interest. [PL 1997, c. 787, §14 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1997, c. 787, §14 (AMD).

§6015. Undertakings of depositories

1. Undertakings; securities as collateral. All national banking associations or state banks, trust companies, savings banks, investment companies and other persons carrying on a banking business may give to the bank a good and sufficient undertaking with sureties approved by the bank to the effect that the national banking association or state bank or banking institution, as described, will faithfully keep and pay over to the order of or upon the warrant of the bank or its authorized agent, all the funds deposited with it by the bank and agreed interest on those funds under this chapter, at such times or upon such demands as are agreed with the bank.

A. Instead of those sureties, the national banking association or state bank or banking institution as described may deposit with the bank or its authorized agent or any trustee for the bank or for the holders of any bonds, as collateral, any securities approved by the bank. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Deposit agreement. The deposits of the bank may be evidenced by an agreement in the form and upon the terms and conditions agreed upon by the bank and the national banking association or state bank or banking institution.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6016. Purchase of municipal securities

1. Contracts with bank; interest; terms; fees. Notwithstanding any general law or special Act applicable to or constituting any limitation on the maximum rate of interest per year payable on bonds or notes, or as to annual interest cost to maturity of money borrowed or received upon issuance of bonds or notes, a governmental unit may contract to pay interest on, or an interest cost per year for, money borrowed from the bank and evidenced by its municipal securities purchased by the bank. Every governmental unit may contract with the bank concerning the terms and conditions of the loan or purchase. Every governmental unit may pay fees and charges required to be paid to the bank for its services.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Bonds and notes; sale; general characteristics. Notwithstanding any general or special Act or other statute applicable to or constituting any limitation on the sale of bonds or notes, any governmental unit may sell bonds or notes to the bank without limitation as to denomination. As provided in the proceedings of the governing body of the governmental unit under which the bonds and notes are authorized to be issued, those bonds and notes may:

A. Be fully registered, registerable as to principal only or in bearer form; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Bear interest at the rate or rates that are determined in accordance with this section; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Be evidenced in any manner that is determined; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Contain other provisions not inconsistent with this section; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Be sold to the bank without advertisement at any price or prices that are determined. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Exchange of bonds. The following provisions apply to the exchange of bonds.

A. Subject to the limitations in paragraphs B and C, the governing body of the governmental unit may provide for the exchange, in the manner provided in the proceedings authorizing the issuance of bonds, of:

(1) Coupon bonds for fully registered bonds;

(2) Fully registered bonds for coupon bonds; and

(3) Any such bonds after issuance for bonds of larger or smaller denominations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The bonds in changed form or denominations must:

(1) Be exchanged for the surrendered bonds in the same aggregate principal amounts and in such manner that no overlapping interest is paid; and

(2) Bear interest at the same rate or rates and mature on the same date or dates as the bonds for which they are exchanged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. When any exchange is made under this section the bonds surrendered by the holders at the time of the exchange shall be cancelled. The exchange shall be made only at the request of the holders of the bonds to be surrendered. The governmental unit may require the bondholders to pay all expenses incurred in connection with the exchange. If any of the officers whose signatures appear on the bonds or coupons cease to be officers before the bonds are delivered, the signatures are valid for all purposes, the same as if they had remained in office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6017. Remedies on default of municipal securities

If a governmental unit defaults in the payment of interest on or principal of any municipal securities owned or held by the bank when due and payable by the governmental unit, the bank shall proceed to enforce payment under applicable provisions of law of the interest or principal or other amounts then due and payable. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6018. Purchase of anticipation notes

The bank may purchase notes of any governmental unit issued in anticipation of the sale of municipal securities in an amount not exceeding at any one time outstanding the authorized amount of those municipal securities. The issue and sale of those anticipation notes must be in accordance with the laws applying to the governmental unit issuing the notes. In connection with any such purchase of anticipation notes, the bank may by agreement with the governmental unit impose any terms, conditions and limitations that in its opinion are proper in the circumstances and for the purposes and security of the bank and the holders of its bonds or notes. The bank shall enforce all the rights, remedies and provisions of law that it has under this section or provided elsewhere in this chapter or as otherwise provided by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6019. Agreements with financial institutions

1. Agreements. The bank may enter into any agreements or contracts with any commercial banks, trust companies, banking or other financial institutions within or outside the State that are necessary, desirable or convenient in the opinion of the bank for the following purposes:

A. To provide services to the bank in connection with the care, custody or safekeeping of municipal securities or other investments held or owned by the bank; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To provide services to the bank in connection with the payment or collection of amounts due and payable as to principal or interest; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To provide services to the bank in connection with the delivery to the bank of municipal securities or other investments purchased by it or sold by it; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. To pay the cost of services provided under this section. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Requiring security. The bank may, in connection with any of the services provided by commercial banks, trust companies or banking or other financial institutions, as to the custody and safekeeping of any of its municipal securities or investments, require security in the way of collateral bonds, surety agreements or security agreements in the form and amount that, in the opinion of the bank, is necessary or desirable for the purpose of the bank.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6020. Form of municipal securities and investments

All municipal securities or other investments of money of the bank permitted or provided for under this chapter shall at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the bank. All municipal securities at any time purchased, held or owned by the bank must upon delivery to the bank be accompanied by documentation including: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Bond opinion. Approving bond opinion;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Signature certification. Certification and guaranty as to signatures;

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Litigation certification. Certification as to the absence of litigation; and

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Other documentation. Any other or further documentation that is required from time to time in the municipal bond market.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6021. Presumption of validity

After issuance, all bonds or notes of the bank are conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit is estopped from questioning their authorization, sale, issuance, execution or delivery by the bank. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

To the extent that this chapter is inconsistent with or in conflict with any private or special Act or the charter of any district or other quasi-municipal corporation, this chapter shall be effective and such other private or special Act or charter of any district or other quasi-municipal corporation does not apply. This chapter is not intended to affect the general laws relating to municipalities, Part 2, in any way. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6022. Exemption of property from execution sale

All property of the bank is exempt from levy and sale by virtue of an execution. No execution or other judicial process may issue against the bank's property nor may any judgment against the bank be a charge or lien upon its property, provided that nothing in this chapter may apply to or limit the rights of the holder of any bonds or notes to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other money. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Action on resolution. Any action or proceeding in any court to set aside a resolution authorizing the bank's issuance of bonds or notes under this chapter or to obtain any relief upon the ground that the resolution is invalid must be commenced within 30 days after the bank adopts the resolution. After this period of limitation expires, no right of action or defense founded upon the invalidity of the resolution or any of its provisions may be asserted nor may the validity of the resolution or any of its provisions be open to question in any court on any ground.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6023. Remedies of holders of bonds and notes

1. Trustee. If the bank defaults in the payment of principal of or interest on any issue of bonds after the principal and interest become due, whether at maturity or upon call for redemption, and that default continues for a period of 30 days, or if the bank fails or refuses to comply with this chapter or defaults in any agreement made with the holders of any issue of bonds, the holders of 25% in aggregate principal amount of bonds then outstanding, by instrument or instruments filed in the office of the clerk

of courts of the County of Kennebec and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purposes provided.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Duties of trustee. The trustee appointed under subsection 1 may, and upon written request of the holders of 25% in principal amount of all such bonds then outstanding shall, in the trustee's or the bank's own name:

A. By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders, including the right to require the bank to collect rates, charges and other fees; and to collect interest and amortization payments on municipal securities held by it adequate to carry out any agreement as to, or pledge of, those rates, charges and other fees and of such interest and amortization payments; and to require the bank to carry out any other agreements with the bondholders and to perform its duties under this chapter; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Bring suit upon the bonds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. By action or suit, require the bank to account as if it were the trustee of an express trust for the bondholders; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. By action or suit in equity, enjoin any acts or omissions which may be unlawful or in violation of the rights of the bondholders. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Additional powers of trustee. The trustee shall also have all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this chapter or incident to the general representation of bondholders in the enforcement and protection of their rights.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Jurisdiction. The Superior Court has jurisdiction of any suit, action or proceeding by the trustee on behalf of the bondholders. The venue of any such suit, action or proceeding shall be laid in the County of Kennebec.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Notice. Before declaring the principal of bonds due and payable, the trustee shall first give 30 days' notice in writing to the bank.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6024. Personal liability

Neither the commissioners of the bank nor any person executing bonds or notes issued under this chapter may be liable personally on those bonds or notes by reason of the issuance of the bonds or notes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 4

PENSION COST REDUCTION BONDS

§6041. Legislative findings

(REPEALED)

SECTION HISTORY

PL 2005, c. 12, §PPPP1 (NEW). PL 2005, c. 457, §A1 (AFF).

§6042. Pension cost reduction bonds authorized

(REPEALED)

SECTION HISTORY

PL 2005, c. 12, §PPPP1 (NEW). PL 2005, c. 457, §A1 (AFF).

§6043. Maine Municipal Bond Bank provisions

(REPEALED)

SECTION HISTORY

PL 2005, c. 12, §PPPP1 (NEW). PL 2005, c. 457, §A1 (AFF).

§6044. Construction

(REPEALED)

SECTION HISTORY

PL 2005, c. 12, §PPPP1 (NEW). PL 2005, c. 457, §A1 (AFF).

SUBCHAPTER 5

LIQUOR OPERATION REVENUE BONDS

§6051. Declaration of public policy; funding

The Legislature finds and declares that revenue financing bonds as authorized in this subchapter are tax-exempt or taxable bonds payable from sources as provided in this subchapter and such bonds do not include a legal or equitable claim against tax revenues of the State and do not represent constitutional debt of or a pledge of the full faith and credit of the State. The Legislature also finds that issuance of the revenue financing bonds authorized in this subchapter and use of the proceeds of those bonds do not violate the terms of the Constitution of Maine, Article V, Part Third. [PL 2013, c. 269, Pt. B, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 269, Pt. B, §2 (NEW).

§6052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 269, Pt. B, §2 (NEW).]

1. Ancillary obligation. "Ancillary obligation" means the obligation of the bond bank in connection with liquor operation revenue bonds issued under this subchapter under any of the following entered into by the bond bank:

A. A credit enhancement or liquidity agreement, including without limitation an obligation in the form of bond insurance, a surety bond, a letter of credit, a standby bond purchase agreement, a reimbursement agreement, liquidity facility or other similar arrangement; [PL 2013, c. 269, Pt. B, §2 (NEW).]

B. A remarketing agreement, auction agent agreement, broker-dealer agreement or other agreement relating to the marketing of liquor operation revenue bonds, an interest rate swap or another type of swap or hedging contract; or [PL 2013, c. 269, Pt. B, §2 (NEW).]

C. An investment agreement, forward purchase agreement or similarly structured investment contract. [PL 2013, c. 269, Pt. B, §2 (NEW).]

[PL 2013, c. 269, Pt. B, §2 (NEW).]

2. Cost of issuance. "Cost of issuance" means an item of expense directly or indirectly payable or reimbursable by the bond bank and related to the authorization, sale or issuance of liquor operation revenue bonds, including, but not limited to, underwriting fees and fees and expenses of professional consultants and fiduciaries.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

3. Financing costs. "Financing costs" means all costs of issuance, capitalized interest, capitalized operating expenses and debt service reserves, fees and costs of any ancillary obligation or other fees, expenses and costs related to issuing, securing and marketing liquor operation revenue bonds.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

4. Fund. "Fund" means the Liquor Operation Revenue Fund established in section 6054.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

5. Liquor operation revenue bond. "Liquor operation revenue bond" means a bond, note or other evidence of indebtedness issued by the bond bank pursuant to this subchapter.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 269, Pt. B, §2 (NEW).

§6053. Liquor operation revenue bonds authorized

1. Revenue bonds. Notwithstanding any other provision of law and upon written approval of the Governor, the bond bank may issue liquor operation revenue bonds of up to $183,500,000 plus financing costs, and excluding bonds to refund bonds, for the purpose of retiring amounts determined by the Commissioner of Health and Human Services to be owed by the State to health care providers as provided by Title 22-A, section 216. The bonds are payable solely from funds as provided in this subchapter.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

2. Amount and terms. The bond bank may issue liquor operation revenue bonds from time to time in amounts and upon such terms as the bond bank considers appropriate. The terms of the liquor operation revenue bonds, their payment schedule and other terms and provisions to facilitate their creditworthiness must be determined by the bond bank.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

3. Form; interest; taxability. The bond bank shall determine the terms of the liquor operation revenue bonds, including:

A. The form of the liquor operation revenue bonds; [PL 2013, c. 269, Pt. B, §2 (NEW).]

B. The rate or rates at which the liquor operation revenue bonds bear interest and whether such interest is intended to be includable in or excludable from the gross income of the bond owners for federal and state income tax purposes pursuant to the United States Internal Revenue Code of 1986, as amended; and [PL 2013, c. 269, Pt. B, §2 (NEW).]

C. The maturity, except that a liquor operation revenue bond may not mature later than June 30, 2024. [PL 2013, c. 269, Pt. B, §2 (NEW).]

[PL 2013, c. 269, Pt. B, §2 (NEW).]

4. Not a pledge of the full faith or credit; not a debt. Liquor operation revenue bonds are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or debts or liability or liabilities on behalf of the State or constitute a pledge of the faith and credit of the State. All liquor operation revenue bonds issued by the bond bank, unless funded or refunded by bonds of the bond bank, are payable solely from revenues or funds pledged or available for their payment as authorized in this subchapter. Each liquor operation revenue bond must contain on its face a statement to the effect that the bond bank is obligated to pay the principal, interest and redemption premium, if any, solely from the revenues pledged for those purposes and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal, interest or redemption premium, if any, on the liquor operation revenue bonds.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

5. Bond proceeds. Except as otherwise be provided under the indenture of trust or resolution of the bond bank authorizing the liquor operation revenue bonds, the net proceeds from any sale of liquor operation revenue bonds must be deposited into the Health Care Liability Retirement Fund established in Title 22-A, section 216.

[PL 2013, c. 269, Pt. B, §2 (NEW).]

6. Agreements with financial institutions. For the purposes of this subchapter, the bond bank may enter into an ancillary obligation or other agreement or contract with a commercial bank, trust company or banking or other financial institution within or outside the State that is necessary, desirable or convenient in the opinion of the bond bank to provide any services to the bond bank to assist the bond bank in effectuating the purposes of this subchapter. The bond bank may enter into, amend or terminate any ancillary obligation or other agreement as the bond bank determines to be necessary or appropriate. The ancillary obligation or other agreement may include without limitation contracts commonly known as interest rate swap agreements, forward purchase contracts or guaranteed investment contracts and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts may be entered into by the bond bank in connection with or incidental to entering into or maintaining any agreement that secures liquor operation revenue bonds issued under this subchapter or any investment or contract providing for investment of reserves or similar facility guaranteeing an investment rate for a period of years not to exceed the underlying terms of the liquor operation revenue bonds. The determination by the bond bank that an ancillary obligation or other agreement or the amendment or termination of an ancillary obligation or other agreement is necessary or appropriate as provided in this section is conclusive. An ancillary obligation or other agreement may contain provisions regarding payment, security, default, remedy, termination and payments and other terms and conditions as determined by the bond bank, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and to any other criteria as may be appropriate.

A liquor operation revenue bond or any ancillary obligation or other agreement made pursuant to this subsection may contain a recital that it is issued or executed, respectively, pursuant to this subchapter. The recital is conclusive evidence of the validity of the liquor operation revenue bond or ancillary obligation or other agreement and of the regularity of the proceedings relating to them.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

7. Remedies of holders of bonds. If the bond bank defaults in the payment of principal of or interest on any issue of liquor operation revenue bonds after the principal and interest become due, whether at maturity or upon call for redemption or otherwise, and that default continues for a period of 30 days, or if the bond bank fails or refuses to comply with this subchapter or defaults in an agreement made with the holders of an issue of liquor operation revenue bonds, the holders of 25% in aggregate principal amount of liquor operation revenue bonds then outstanding, by instrument or instruments filed in the office of the clerk of courts of Kennebec County and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders. The trustee, in the trustee's own name, by mandamus or other suit, action or proceeding at law or in equity, shall enforce all rights of the bondholders or holders of the ancillary obligations or other agreements and require the bond bank to carry out any other agreements with the bondholders or holders of such ancillary obligations or other agreements and to perform the bond bank's duties required under this subchapter, as long as the bonds are limited revenue obligations. An obligation to make debt service payments does not constitute a debt or liability of the State or any political subdivision of the State within the meaning of any constitutional or statutory limitation, or a loan of the credit of the State, or a pledge of the faith and credit of the State or any political subdivision of the State, and the State has no legal obligation to appropriate money for those payments or other such obligations. Payments of the principal of, redemption premium, if any, and interest on the liquor operation revenue bonds must be made solely from amounts derived from the fund or as otherwise authorized by this subchapter. Neither the faith and credit nor the taxing power of the State or of any political subdivision of the State is pledged to the payment of the principal of, redemption premium for, if any, or interest on the liquor operation revenue bonds.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

8. State authorized to enter into contracts. The State, including any department, commission, agency or other instrumentality of the State, is authorized to enter into an agreement, contract or other arrangement with the bond bank in connection with the issuance of liquor operation revenue bonds.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

9. Reserve fund for liquor operation revenue bonds. The bond bank may establish a capital reserve fund for the benefit of holders of liquor operation revenue bonds subject to the provisions of section 6006, subsection 5.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

10. Agreement of the State. The bond bank is authorized to include the following statement in its liquor operation revenue bonds or contracts or ancillary obligations: "The State hereby pledges to and agrees with the holders of any liquor operation revenue bonds issued pursuant to the Maine Revised Statutes, Title 30-A, chapter 225, subchapter 5 and with those parties who may enter into any ancillary obligation or contract with the Maine Municipal Bond Bank pursuant to that subchapter that the State will not limit, alter, restrict or impair the rights vested in the Maine Municipal Bond Bank and in any party to an ancillary obligation or contract until the liquor operation revenue bonds, together with interest, including interest on any unpaid installment of interest and all costs and expenses in connection with any actions or proceedings by or on behalf of the bondholders, are fully met and discharged and such contracts and ancillary obligations are fully performed on the part of the Maine Municipal Bond Bank."

Nothing in this subchapter precludes the limitation or alteration of the rights vested in the bond bank and holders of liquor operation revenue bonds if and when adequate provision is made by law for the

protection of the holders of liquor operation revenue bonds of the bond bank or those entering into contracts or ancillary obligations with the bond bank.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 269, Pt. B, §2 (NEW).

§6054. Liquor Operation Revenue Fund

1. Fund established. The Liquor Operation Revenue Fund, referred to in this section as "the fund," is a nonlapsing fund established within the bond bank to receive the amounts referred to in subsection 2 and to pay amounts due under the liquor operation revenue bonds and any ancillary obligations. The fund must be held separate and apart from all other money, funds and accounts of the bond bank.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

2. Funding. Beginning July 1, 2014, there must be deposited directly into the fund any amounts received pursuant to Title 28-A, section 90 and Title 22-A, section 216 and any other money or funds transferred or made available to the bond bank only for the purposes of the fund from any other source including without limitation amounts required to be deposited in the fund by the terms of any ancillary obligation or other agreement related to liquor operation revenue bonds.
[PL 2015, c. 494, Pt. A, §35 (AMD).]

3. Use of fund during bond retirement period; fiscal years before July 1, 2017. Money in the fund must be held and applied solely to the payment of the liquor operation revenue bonds and any ancillary obligations secured by the fund as the bonds and ancillary obligations become due and payable and for the retirement of liquor operation revenue bonds, including costs of administering the fund, the bonds and the ancillary obligations and the payment of any redemption premium required to be paid when any liquor operation revenue bonds are redeemed or retired before maturity or for the payment of ancillary obligations; except that, to the extent there is money in the fund not needed in accordance with terms of the liquor operation revenue bonds and ancillary obligations, before June 30th of each year, the bond bank shall withdraw an amount not exceeding $16,714,844 in the fiscal year ending June 30, 2015, $16,639,000 in the fiscal year ending June 30, 2016 and $16,817,000 in the fiscal year ending June 30, 2017 to be paid to the State and distributed as follows:

A. First, to the General Fund as undedicated revenue up to $9,714,884 in the fiscal year ending June 30, 2015, $9,639,000 in the fiscal year ending June 30, 2016 and $9,817,000 in the fiscal year ending June 30, 2017; [PL 2013, c. 269, Pt. B, §2 (NEW).]

B. Second, the remainder, if any, in each fiscal year divided in equal amounts to an account within the Department of Health and Human Services and an account within the Department of Environmental Protection, up to $3,500,000 per account or the maximum amount allowed for federal matching funds purposes under federal water programs, whichever is less, to be used for revolving loan funds for drinking water systems and wastewater treatment; and [PL 2013, c. 269, Pt. B, §2 (NEW).]

C. Third, the remainder, if any, to an account within the Department of Transportation to be used for the construction of highways and bridges. [PL 2013, c. 269, Pt. B, §2 (NEW).]

[PL 2013, c. 269, Pt. B, §2 (NEW).]

4. Use of fund during bond retirement period; from July 1, 2017 until bonds retired. Money in the fund must be held and applied solely to the payment of the liquor operation revenue bonds and any ancillary obligations secured by the fund as the bonds and ancillary obligations become due and payable and for the retirement of liquor operation revenue bonds, including costs of administering the fund, the bonds and the ancillary obligations and the payment of any redemption premium required to be paid when any liquor operation revenue bonds are redeemed or retired before maturity or for the

payment of ancillary obligations; except that, to the extent there is money in the fund not needed in accordance with terms of the liquor operation revenue bonds and ancillary obligations, before June 30th of each year, the bond bank shall withdraw an amount not exceeding $7,000,000 to be paid to the State and distributed as follows:

A. First, in equal amounts to an account within the Department of Health and Human Services and an account within the Department of Environmental Protection, up to $3,500,000 per account or the maximum amount allowed for federal matching funds purposes under federal water programs, whichever is less, to be used for revolving loan funds for drinking water systems and wastewater treatment; and [PL 2013, c. 269, Pt. B, §2 (NEW).]

B. The remainder, if any, to an account within the Department of Transportation to be used for the construction of highways and bridges. [PL 2013, c. 269, Pt. B, §2 (NEW).]

Immediately upon retirement of all outstanding liquor operation revenue bonds and ancillary obligations secured by the fund, the bond bank shall withdraw any excess money in the fund and transfer it to the Maine Budget Stabilization Fund established in Title 5, section 1532.
[PL 2013, c. 269, Pt. B, §2 (NEW).]

5. Use of fund after bond retirement. After all liquor operation revenue bonds and any ancillary obligations secured by the fund have been retired, additional proceeds credited to the fund from Title 22-A, section 216 and Title 28-A, section 90 must be disbursed on a quarterly basis to the State, after payment of costs of administering the fund, and credited by the State Controller as follows:

A. Thirty percent to the State Water and Wastewater Infrastructure Fund established pursuant to section 6006-H and divided as follows:

(1) Forty-five percent to an account within the State Water and Wastewater Infrastructure Fund for drinking water purposes divided as follows:

(a) Up to the maximum amount allowed for the state match for federal funds provided to the safe drinking water revolving loan fund established under section 6006-B to an account within the Department of Health and Human Services for revolving loan funds for drinking water systems; and

(b) The remainder to the Maine Drinking Water Fund established pursuant to Title 22, section 2610; and

(2) Fifty-five percent to an account within the State Water and Wastewater Infrastructure Fund for wastewater purposes divided as follows:

(a) Up to the maximum amount allowed for the state match for federal funds provided to the revolving loan fund established under section 6006-A to an account within the Department of Environmental Protection for revolving loans for wastewater treatment; and

(b) The remainder to the Maine Clean Water Fund established pursuant to Title 38, section 411-C; [PL 2019, c. 423, §2 (RPR).]

B. Thirty-five percent to an account within the Department of Transportation for construction of highways and bridges; and [PL 2013, c. 269, Pt. B, §2 (NEW).]

C. The remainder to the Maine Budget Stabilization Fund established in section 1532. [PL 2013, c. 269, Pt. B, §2 (NEW).]
[PL 2019, c. 423, §2 (AMD).]

SECTION HISTORY

PL 2013, c. 269, Pt. B, §2 (NEW). PL 2015, c. 494, Pt. A, §35 (AMD). PL 2019, c. 423, §2 (AMD).

CHAPTER 229

MUNICIPAL FINANCE BOARD

§6101. Membership

The Board of Emergency Municipal Finance, established in accordance with Title 5, section 12004-I, subsection 25-A, and referred to in this chapter as the "board," shall be composed of the 3 persons who hold the offices of the Commissioner of Finance, Treasurer of State and State Tax Assessor. The successor of any person to any of these offices immediately becomes a member of the board and the person who formerly held that office ceases to be such a member. The person holding the office of State Tax Assessor is the chair of the board. The members of the board shall be compensated according to the provisions of Title 5, chapter 379. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §51 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 878, Pt. A, §90 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A51,C8,C10 (AMD). PL 1989, c. 878, §A90 (AMD).

§6102. Purpose

The purpose of establishing the board is to enable municipalities that have fallen into financial difficulties to receive assistance from the State and to be reestablished on a sound financial basis and to assure the State of the collection of the taxes due from those municipalities to the State. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6103. General powers; construction

1. General powers. All powers and duties necessary to carry out the purposes set forth in this chapter are conferred on the board.
[PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Liberal construction. This chapter shall be liberally construed to carry out the intent expressed in section 6102.
[PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6104. Availability of state funds for public assistance programs

1. Application for funds. Any municipality, which is financially unable to provide for its direct relief and work programs or its contributory share of public assistance programs of any nature, may apply to the Department of Health and Human Services for funds from the State for that purpose. The municipal officers shall apply in writing and shall send a copy of the application to the Board of Emergency Municipal Finance.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Determination of eligibility. When the application is received, the Department of Health and Human Services shall determine if the municipality or unorganized territory is unable to provide for its direct relief and work programs or its contributory share of public assistance programs of any nature. [PL 2015, c. 44, §14 (AMD).]

3. Provision of state funds. Through the Department of Health and Human Services, the State may provide for direct relief and work programs or the necessary share for the municipality of its contributory share of public assistance programs of any nature in the municipality. No such funds may be expended until the Board of Emergency Municipal Finance takes over the municipality's affairs. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 689, §B6 (REV). PL 2015, c. 44, §14 (AMD).

§6105. Audit

If a municipality falls one year and 6 months behind in the payment of its taxes to the State in full or in part, or defaults on any bond issue or payment of interest due on a bond issue, or neglects to pay school and other salaries due and has received funds from the State in support of its poor, the board may: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Audit or investigation. Have an audit made of the financial condition of the municipality at the municipality's expense, or an investigation of the financial affairs of the municipality that will reveal whether or not its affairs are in such condition that the interest of the State and public necessity require, in the board's judgment, that its affairs be taken over and administered under this chapter; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Other investigation. Make any other investigation of the affairs of that municipality that it considers wise to determine the reason for the failure to pay such taxes and indebtedness and the reason for the need for state relief of its poor. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Whenever any municipality applies to the State under section 6104 for funds in support of its poor, the board shall have the audit and investigation provided for in this section performed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6106. Board may take over local government

1. Board may take over local government. If, after having made the audit or investigation provided for in section 6105, the board decides by a majority vote that the delinquency is not due to disbursements for emergency relief which could not reasonably be anticipated or to other unavoidable misfortune, the board may take over and regulate the administration of the government of the

municipality and the management of the municipality's financial affairs and administer the municipality's government and financial affairs to the exclusion of or in cooperation with any other local government or governmental agency, as otherwise provided by law.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Appointment of commissioner or commissioners. For municipalities with a population under 5,000, the board may appoint one person as commissioner. For municipalities with a population of 5,000 or over, the board may appoint 3 persons as commissioners, one of whom the board shall designate as chairman. The commissioner or commissioners shall act under the direction of the board with relation to the government and management of the governmental and financial affairs of the municipality and are responsible to the board.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6107. Powers and duties of commissioners

1. Employees; compensation; appropriation. The commissioner or commissioners appointed under section 6106 may employ any experts, counsel and other assistants and incur any other expenses that they consider necessary, subject to the control of the board. The municipality shall:

A. Appropriate each year a sum sufficient to cover those expenses and a reasonable compensation, set by the board, for the commissioner or commissioners; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Pay this sum upon requisition of the commissioner or commissioners. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The commissioner or commissioners have the same right to incur expenses in anticipation of its appropriation as if it were a regular department of the municipality. If no such appropriation is made, the commissioner or commissioners may expend the amount found necessary under this section. That payment is a lawful obligation of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Supervision of financial affairs. The commissioner or commissioners shall supervise the municipality's financial affairs. No appropriation may be made and no debt incurred, except with the written approval or upon the written recommendation or requisition of the commissioner or commissioners. No department or officer of the municipality may expend any money or incur any liability, except with the written approval of the commissioner or commissioners. The commissioner or commissioners may from time to time authorize in writing any department or officer of the municipality to make expenditures or incur liabilities without the commissioner or commissioners' written approval until further notice. The commissioner or commissioners may make recommendations in writing to any department or officer of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6108. Temporary officials

1. Appointment by commissioners. The commissioner or commissioners may declare the offices of auditor, treasurer, collector and assessors or any other offices in the municipality vacant temporarily and appoint successors to any of the offices to serve at the will of the commissioner or commissioners. The appointees shall receive the compensation set by the commissioner or commissioners and the former incumbents shall receive no compensation during their absence from office.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Appointment by board. The choice of managers, officers and agents shall be and remain with the board and their compensation shall be set by the board, any other law to the contrary notwithstanding. The former incumbents shall receive no compensation during their absence from office. The board may appoint the commissioner or commissioners to serve as any official in the municipalities and fix the compensation for serving in that capacity. If the board considers it advisable, the board may appoint one officer, commissioner or agent to administer 2 or more municipalities.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6109. Loans and assessments

1. Loan; commissioners' certificates; borrowing from the State. After having taken over the administration of government and control of the financial affairs of any municipality under section 6106, the board, through the commissioner or commissioners in charge of that municipality, may make temporary loans to the extent of the constitutional debt limit of the municipality. The commissioner or commissioners may:

A. Issue negotiable commissioners' certificates which shall be a preferred claim against the assets of the municipality operated by the commissioner or commissioners; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Borrow from the State, if and when an amendment to the Constitution of Maine is adopted authorizing the loan, in an amount sufficient:

(1) To pay the outstanding state taxes of the municipality;

(2) To pay any expenses of the board that are allocated to the municipality; and

(3) For other lawful purposes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

These obligations must be signed by the commissioner or commissioners and otherwise shall be issued in the same manner and form as provided by law upon the terms determined by the board, and thereby to become the valid debt of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Commissioners' authority. In issuing temporary commissioners' certificates or any other acts pursuant to their duties in connection with the government of any municipality, the board has the same

authority as is vested in the municipal officers and shall further have the right to issue its certificates as if authorized by the vote of the inhabitants of any such municipality at a regular election called for that purpose.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Assessments and collection; statute of limitations tolled. The board may make assessments upon the property in the municipality and may collect the same to pay deficiencies and accounts previously contracted by the municipality.

During the period of the control by the commissioner or commissioners, the statute of limitations shall not run on any obligations of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6110. Duration of power of board

The board shall continue in charge of the government and financial affairs of the municipality until:
[PL 1987, c. 737, Pt. C, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Obligations paid. Its taxes due the State, or loans made to pay those taxes, or expenses or obligations incurred by the commissioner or commissioners appointed under section 6106 or the board, have been paid; and
[PL 1987, c. 737, Pt. C, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Municipality may resume control. In the opinion of the commissioner or commissioners or the board, the financial affairs of the municipality may be resumed under local control.
[PL 1987, c. 737, Pt. C, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6111. Complaint; notice

1. Commissioners may file complaint. If the commissioner or commissioners who are in charge of the affairs of any municipality under this chapter believe that the municipality has incurred, prior to the date on which the board took over the administration of the municipality's affairs, debts and obligations in excess of the debt limit fixed by the Constitution of Maine for the municipality, and, except for section 6109 the municipality would be subjected to a multiplicity of actions, the commissioner or commissioners may bring a complaint in the name of the inhabitants of the municipality in the Superior Court in the county in which the municipality is located against all of the known persons holding any debts or obligations against the inhabitants of the municipality, to have the validity of all the debts and obligations of the municipality determined.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Attorney General to represent petitioners. The Attorney General shall appear for and on behalf of the petitioner in these proceedings. The commissioner or commissioners in charge of the

municipality's affairs shall pay the expense of the Attorney General's representation from any funds in their control.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Filing deadline; notice. The court may fix a time within which all persons holding claims or demands against the inhabitants of the municipality must file their claim or demand for adjudication of its validity as an obligation of the municipality. The court shall order public notice to be given to creditors of the inhabitants of the municipality to file their claims within the time specified. The notice must be published in a newspaper of general circulation in the county in which the municipality is located for at least 3 successive weeks. The last publication must be at least 30 days before the final date set by the court for filing claims against the inhabitants of the municipality. The court, in its discretion, may order any additional notice to be given that is proper and necessary.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Hearing. After notice has been given under subsection 3 and before the period for filing claims against the inhabitants of the municipality has expired, the court shall fix the time for hearing upon the claims so filed to determine the validity and amount of the obligation. This hearing may be adjourned from time to time.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Appeal to Law Court. Any party aggrieved by the finding of the Superior Court may appeal to the Supreme Judicial Court. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule. The judgment of the Superior Court is binding upon all parties unless appealed under this subsection.
[PL 2001, c. 17, §5 (AMD).]

6. Effect of judgment. All obligations determined by the court not to be valid claims against the inhabitants of the municipality shall be forever barred in any action against the inhabitants of the municipality. The court's finding may be pleaded as a bar to any action brought upon the claim or claims.

All indebtedness adjudicated to be valid against the inhabitants of the municipality by the finding of the Superior Court or on appeal, if an appeal is taken by either party, shall be thereafter considered as a valid outstanding indebtedness against the inhabitants of the municipality.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2001, c. 17, §5 (AMD).

§6112. Voluntary compromise settlements

1. Settlement offers authorized. The board, when it considers it advisable to do so for the purpose of reestablishing upon a sound financial basis any municipality under its control, may at any time in behalf of the municipality offer compromise settlements to any of its creditors upon:

A. Claims, demands or obligations of whatever nature which accrued before the board assumed control; and [PL 1987, c. 737, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Upon all interest, whenever accrued, on those claims, demands or obligations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Offers to the State. An offer may be made to the State under this section upon obligations due the State, whether arising from taxes, bonds, notes or otherwise by presentation to the Treasurer of State. Upon recommendation, certification and approval in the manner prescribed in Title 5, section 1504, the Treasurer of State shall accept and give a receipt for the sum or sums so offered in full and final settlement. The balance of any such obligation shall be charged off the books of account of the State.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Offers to a county. With respect to obligations due any county, whether arising from taxes, bonds, notes or otherwise, an offer may be made to its county commissioners and upon acceptance of that offer and tender of the sum agreed upon, the county treasurer shall accept and give a receipt for the sum or sums so offered in full and final settlement. The balance of any such obligation shall be charged off the books of account of the county.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Creditor or holders' remedies unaffected. This section shall not be construed to require any creditor or the holder of any obligation of the municipality to accept any offer of settlement made under this section, nor shall a refusal to accept diminish any existing rights or remedies in any manner.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Acceptance and discharge. A creditor's acceptance of any offer made under this section and payment of the sum agreed upon shall in all cases constitute a full and complete discharge of any such claim, demand or obligation, whether arising from taxes, bonds, notes or otherwise. No attachment, levy, action or other process or proceeding may thereafter be commenced, maintained or prosecuted for the collection of any part of the claim, demand or obligation.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6113. Reporting

Notwithstanding the provisions of Title 5, section 12005-A, the board is not required to file an annual report with the Secretary of State unless the board meets and exercises any of its powers and duties during a calendar year. In any calendar year in which the board meets and exercises any of its powers and duties, the board is subject to the provisions of Title 5, section 12005-A. [PL 2001, c. 352, §15 (NEW).]

SECTION HISTORY

PL 2001, c. 352, §15 (NEW).

CHAPTER 231

FUND FOR THE EFFICIENT DELIVERY OF LOCAL AND REGIONAL SERVICES

§6201. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 266, §2 (NEW).]

1. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.
[PL 2017, c. 313, §1 (AMD).]

1-A. Capital grant. "Capital grant" means a grant award from the fund pursuant to section 6208 to cover eligible costs for a capital grant as specified in subsection 5, paragraph C.
[PL 2017, c. 313, §2 (NEW).]

2. Cooperative services grant. "Cooperative services grant" means a grant award from the fund pursuant to section 6208 to cover eligible costs for a cooperative services grant as specified in subsection 5, paragraph B.
[PL 2017, c. 313, §3 (AMD).]

3. Department. "Department" means the Department of Economic and Community Development.
[PL 2017, c. 313, §3 (AMD).]

4. Eligible applicant. "Eligible applicant" means a municipality, county or regional government subdivision.
[PL 2005, c. 266, §2 (NEW).]

5. Eligible costs. "Eligible costs" means the actual and direct expenses incurred in implementing a cooperative services grant, a capital grant or a planning grant awarded under section 6208, including expenses incurred in connection with the following activities for cooperative services grants, capital grants and planning grants.

A. Eligible costs for a planning grant include the expense of:

(1) Studies to examine alternative methods of achieving collaboration, including those adopted by other municipalities;

(2) Cost-benefit studies; and

(3) Facilitation of community meetings and public outreach and education. [PL 2005, c. 266, §2 (NEW).]

B. Eligible costs for a cooperative services grant include the expense of:

(1) Execution and implementation of an interlocal agreement under chapter 115, a tax base sharing arrangement or another regional government mechanism for achieving collaboration;

(2) Joint strategic planning or comprehensive or capital investment planning;

(3) Public outreach and education;

(4) Collaboration or consolidation of offices or services;

(5) Professional services, such as those provided by attorneys, consultants, facilitators and architects; and

(6) Administrative services and costs, such as photocopying, printing, telephone service and travel costs. [PL 2017, c. 313, §3 (AMD).]

C. Eligible costs for a capital grant include the expense of:

(1) Site, facility, infrastructure or utility system acquisition;

(2) Repair, rehabilitation or renovation of existing facilities;

(3) New construction or expansion of existing facilities; and

(4) Purchase of major equipment or systems. [PL 2017, c. 313, §3 (NEW).]

Administrative and other costs of ongoing operations that would otherwise be budgeted by a municipality, county or regional government subdivision are not eligible costs.
[PL 2017, c. 313, §3 (AMD).]

6. Fund. "Fund" means the Fund for the Efficient Delivery of Local and Regional Services established by section 6202.
[PL 2009, c. 213, Pt. S, §7 (AMD); PL 2009, c. 213, Pt. S, §16 (AFF).]

7. Planning grant. "Planning grant" means a grant award from the fund pursuant to section 6208 to cover eligible costs of developing a qualifying project for a cooperative services grant.
[PL 2005, c. 266, §2 (NEW).]

8. Qualifying project. "Qualifying project" means a project designed to achieve significant and sustainable savings in the cost of delivering local and regional governmental services that reduces the demand for property tax revenues through collaborative approaches to service delivery, enhanced regional delivery systems, consolidated administrative services, broad-based purchasing alliances and interlocal agreements.
[PL 2005, c. 266, §2 (NEW).]

9. Regional government subdivision. "Regional government subdivision" means:

A. A regional planning commission or regional council of governments established under chapter 119; or [PL 2005, c. 266, §2 (NEW).]

B. A legal entity created by interlocal agreement pursuant to chapter 115. [PL 2005, c. 266, §2 (NEW).]

[PL 2005, c. 266, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2009, c. 213, Pt. S, §7 (AMD). PL 2009, c. 213, Pt. S, §16 (AFF). PL 2017, c. 313, §§1-3 (AMD).

§6202. Fund source; nonlapsing; dedicated, special revenue account

There is established the Fund for the Efficient Delivery of Local and Regional Services to assist those municipalities that collaborate with other municipalities, counties or state agencies to obtain savings in the cost of delivering local and regional governmental services. The fund consists of revenues transferred from the General Fund and any funds received as contributions from private and public sources. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year. The fund is a dedicated, special revenue account. [PL 2009, c. 213, Pt. S, §8 (AMD); PL 2009, c. 213, Pt. S, §16 (AFF).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2009, c. 213, Pt. S, §8 (AMD). PL 2009, c. 213, Pt. S, §16 (AFF).

§6203. Fund administration

The department shall administer the fund. The fund must be held separate and apart from all other money, funds and accounts. [PL 2005, c. 266, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW).

§6204. Uses of fund

Except as otherwise provided by this section, the fund is available solely for grants for qualifying projects. The department may use the fund to cover its costs of administration, including contracting for services to administer the grants. [PL 2009, c. 213, Pt. S, §9 (AMD); PL 2009, c. 213, Pt. S, §16 (AFF).]

Grant funds may not be used for reimbursement of costs or expenses incurred prior to an award from the fund. A maximum of 10% of the value of grant funds available during any year may be awarded for planning grants. [PL 2007, c. 662, §4 (AMD).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2007, c. 662, §4 (AMD). PL 2009, c. 213, Pt. S, §9 (AMD). PL 2009, c. 213, Pt. S, §16 (AFF).

§6205. Eligibility; intergovernmental cooperation

In accordance with the request for proposals issued by the department under section 6209, an eligible applicant may apply for a planning grant, a capital grant or a cooperative services grant from the fund. In order to be eligible for a planning grant, a capital grant or a cooperative services grant, an eligible applicant must demonstrate in its application that the project for which it seeks a grant will be undertaken in cooperation with one or more municipalities, counties or regional government subdivisions. [PL 2017, c. 313, §4 (AMD).]

An eligible applicant may contract with nongovernmental organizations and individuals for the purpose of carrying out projects supported by the fund. [PL 2005, c. 266, §2 (NEW).]

In applying for a cooperative services grant or a capital grant, an eligible applicant must specify the type of qualifying project for which assistance is sought and how the project will reduce demand for property tax revenues. [PL 2017, c. 313, §4 (AMD).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2017, c. 313, §4 (AMD).

§6206. Local match

The department may not require an eligible applicant to provide matching funds to be eligible for a cooperative services grant and may not give preference or priority to an eligible applicant whose proposal provides matching funds. [PL 2005, c. 266, §2 (NEW).]

The department may require an eligible applicant to provide matching funds for a capital grant if suggested by the review panel during consultation required under section 6208, subsection 1. [PL 2017, c. 313, §5 (NEW).]

The department shall require an eligible applicant to provide matching funds for a planning grant in an amount not less than the total grant award requested. [PL 2007, c. 662, §5 (AMD).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2007, c. 662, §5 (AMD). PL 2017, c. 313, §5 (AMD).

§6207. Funding criteria

1. Planning grants. In evaluating and ranking an application for a planning grant, the review panel established under section 6208 shall consider whether the technical assistance and facilitation for which assistance is sought is reasonably likely to result in development and subsequent submission of a proposal for a qualifying project; the projected estimate of the aggregate reduction in the demand for

property tax revenue; and other related factors in accordance with a request for proposals issued by the department under section 6209.
[PL 2005, c. 266, §2 (NEW).]

2. Cooperative services grants; capital grants. In evaluating and ranking each application for a cooperative services grant or a capital grant, the review panel established under section 6208 shall consider the aggregate reduction in the demand for property tax revenue in the geographical region covered by the municipalities, counties and regional government subdivisions cooperating in the qualifying project, the chance of success of the project and the ability to replicate the efficiency achieved by the project in other regions; and other related factors in accordance with a request for proposals issued by the department under section 6209.
[PL 2017, c. 313, §6 (AMD).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2017, c. 313, §6 (AMD).

§6208. Review panel; review and decision on grant applications

1. Composition of review panel. A review panel is established consisting of the following members:

A. [PL 2011, c. 655, Pt. EE, §20 (RP); PL 2011, c. 655, Pt. EE, §30 (AFF).]

B. The commissioner or the commissioner's designee; [PL 2005, c. 266, §2 (NEW).]

C. A representative of the Department of Administrative and Financial Services, appointed by the Governor; [PL 2017, c. 313, §7 (AMD).]

D. One representative of a county or regional government subdivision recommended by a statewide organization representing counties or regional service providers, appointed by the Governor; [PL 2005, c. 266, §2 (NEW).]

E. Two representatives of municipal government, recommended by the Maine Municipal Association, who currently serve or formerly served as municipal officers or chief administrative officials of municipalities, with one representing a rural community with a population of less than 4,000 and one representing a suburban community with a population of 4,000 or more, appointed by the Governor; and [PL 2005, c. 266, §2 (NEW).]

F. One representative of a service center community recommended by the Maine Service Centers Coalition or its successor organization, appointed by the Governor. [PL 2005, c. 266, §2 (NEW).]
[PL 2017, c. 313, §7 (AMD).]

2. Review panel duties. The review panel established in subsection 1 shall:

A. Determine whether each eligible applicant for a cooperative services grant, a capital grant or a planning grant meets the eligibility criteria under section 6205 and provide written notice to that applicant of its eligibility determination; and [PL 2017, c. 313, §8 (AMD).]

B. In accordance with the request for proposals issued under section 6209, review and rank proposals from applicants eligible for cooperative services grants, capital grants and planning grants under section 6205 against the funding criteria defined in section 6207 and award cooperative services grants, capital grants or planning grants to proposals that best meet the funding criteria in section 6207 subject to availability of funding. [PL 2017, c. 313, §8 (AMD).]

Prior to issuing the request for proposals as provided in section 6209, the department shall consult with the review panel, which may suggest criteria for consideration by the department.
[PL 2017, c. 313, §8 (AMD).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2011, c. 655, Pt. EE, §20 (AMD). PL 2011, c. 655, Pt. EE, §30 (AFF). PL 2017, c. 313, §§7, 8 (AMD).

§6209. Request for proposals

No later than November 1st of each year, the department shall issue a request for proposals in accordance with the Department of Administrative and Financial Services, Bureau of General Services Rules, Chapter 110 that includes the schedules for submission and action on applications for grants under this chapter; procedures for scoring and ranking those applications; and procedures and information requirements related to application submissions. The department shall provide reasonable notice to all eligible applicants about the availability of the fund and the solicitation of grant proposals. [PL 2017, c. 313, §9 (AMD).]

SECTION HISTORY

PL 2005, c. 266, §2 (NEW). PL 2017, c. 313, §9 (AMD).

§6210. Report

(REPEALED)

SECTION HISTORY

PL 2005, c. 222, §4 (REV). PL 2005, c. 266, §2 (NEW). PL 2009, c. 30, §3 (RP).

SUBPART 10

VILLAGES

CHAPTER 241

VILLAGES

§6301. Meetings

When its legislative body has so provided, the meetings of a village corporation may be announced by having an attested copy of the warrant posted in a conspicuous, public place within the corporate limits at least 7 days before the meeting, instead of in the manner provided by its charter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6302. Ordinance authority

A village corporation or its officers have the same powers and duties which a municipality or its municipal officers have under sections 3002, 3005, and 3007 to 3009. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. A, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§6303. Planning and land use regulation

A village corporation may enact planning and land use regulation ordinances, subject to the same guidelines and standards which apply to municipalities under chapter 187. When a conflict exists between a land use regulation ordinance of a village corporation and an ordinance of the municipality of which it is a part, the municipal ordinance prevails. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §52 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A52,C10 (RPR). PL 1989, c. 104, §§C8,10 (AMD).

§6304. Parks

Village corporations may take and hold lands by devise or gift, in trust for playground or park purposes, and may expend not more than 10% of the money apportioned to the village corporation, under its charter, for the improvement and care of that land. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Park commissioners. A village corporation has the powers of a municipality under section 3264, regarding the appointment of park commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

PART 3

PLANTATIONS AND UNORGANIZED PLACES

CHAPTER 301

PLANTATIONS

SUBCHAPTER 1

ORGANIZATION

§7001. Organization of unincorporated townships

1. Census. Any unincorporated township may, by petition of 20% or more of the voters of the township, require the county commissioners to determine from the Federal Decennial Census or by actual enumeration whether the township has 200 inhabitants or more. The county commissioners shall report the result of the census to the Secretary of State who shall record it.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Organization of township with population of 200 or more. If the report made under subsection 1 indicates that the township has a population of 200 or more, the county commissioners shall, with the consent of a majority of the petitioners under subsection 1, issue their warrant to an inhabitant of the unincorporated township, commanding that inhabitant to notify the voters of the

unincorporated township, to assemble on a day and at a place named in the warrant, to choose a moderator, clerk, 3 assessors, treasurer, collector of taxes, constable, school committee and other necessary plantation officers.

A. The person selected by the commissioners shall give notice of the meeting by posting an attested copy of the warrant for the meeting in 2 public and conspicuous places in the township at least 14 days before the day of meeting. The warrant, with the inhabitant's return on it, shall be returned to the meeting and the officers shall be chosen and sworn. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Alternative method. Any unincorporated or unorganized place containing any number of inhabitants may be organized under this subsection. One or more of the county commissioners, on written application signed by at least 3 voters of any unincorporated or unorganized place in their county, may issue a warrant to one of the 3 voters, requiring that voter to announce a meeting of the voters of the unincorporated or unorganized place residing within the limits described in the warrant. When a state or county tax is assessed to the unincorporated or unorganized place, the Treasurer of State or the county commissioners, without application by the voters, may issue their warrant to an inhabitant of the unincorporated or unorganized place. In either case the warrant, notice of meeting and proceedings shall be the same as provided in subsection 2.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Organization meeting. At the time and place appointed for meetings for the organization of plantations under subsections 2 and 3, a moderator shall be chosen by ballot by the voters present to preside at the meeting. The person to whom the warrant was directed shall preside until the moderator is chosen and sworn by that person. A clerk, 3 assessors, treasurer and school committee shall be chosen by ballot and sworn by the moderator or a dedimus justice. Other plantation officers may be chosen by ballot or other method agreed on by vote of the meeting and shall be sworn by the moderator or a dedimus justice.

[PL 1989, c. 104, Pt. A, §53 (AMD); PL 1989, c. 104, Pt. C, §10 (AMD).]

5. Documents recorded with Secretary of State. When a plantation is organized, the clerk and assessors shall send to the Secretary of State:

A. A certified copy of all proceedings performed in organizing the plantation, including:

(1) The petition, if any;

(2) The warrant issued for the organizational meeting and the return on the warrant; and

(3) The record of the organizational meeting; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A written description of the limits of the plantation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The Secretary of State shall record these documents. Upon recording, all laws applicable to organized plantations apply to plantations organized under this chapter.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A53,C8,C10 (AMD).

§7002. Organized plantations to consist of one township

Organized plantations may not be composed of more than one township, and when organized under section 7001, former organizations cease. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7003. Plantations reorganized

Plantations organized upon application of 3 or more inhabitants may be reorganized at any time under this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7004. Annual meeting

Organized plantations shall hold an annual meeting and choose a clerk, 3 assessors, treasurer, collector of taxes and a school committee. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Term of office and election of assessors. The provisions of section 2526, subsection 5, relating to the terms of office and election of assessors, apply to the terms of office and election of assessors of organized plantations.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Road commissioners. When money is raised for the repair of ways and bridges, the assessors of the plantation shall appoint one or more road commissioners.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7005. Officers' names sent to Secretary of State

The Secretary of State shall furnish blanks to the clerks of organized plantations who shall return them to the Secretary of State on or before the first day of September, annually, with the names of the assessors and clerks of their respective plantations, and a statement that the assessors and clerk have been sworn. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Failure to return blanks. When any plantation fails to return the blanks, the Secretary of State shall not furnish it with blanks for election returns, and no votes purporting to be cast by voters of that plantation may be counted or allowed by the Governor.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. During the first year of organization. When a plantation is organized after the first day of July, the clerk of that plantation is not required to return the blanks during that year, but the votes from those plantations shall not be counted or allowed by the Governor for any purpose, during the calendar year of its organization, unless it is organized at least 60 days before the Tuesday following the first Monday of November.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7006. Town law applies to officials and employees

1. Plantation meetings, officials and employees. The following provisions apply to plantations and their officials and employees, as far as applicable, except when specifically provided otherwise:

A. Laws relating to calling, notifying and conducting town meetings; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Laws relating to the election, appointment, hiring, qualification, filling of vacancies, duties, powers, compensation, liabilities and penalties for official neglect and misconduct of town officials and employees. [PL 2019, c. 18, §1 (AMD).]

[PL 2019, c. 18, §1 (AMD).]

2. Unlawful voting. Voters in plantations are liable to the same penalties for unlawful voting as voters in towns.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2019, c. 18, §1 (AMD).

§7007. Duties of officials

Assessors of plantations shall be considered the selectmen of the plantation for the purpose of performing the duties performed by the selectmen of towns. Treasurers, collectors and constables of plantations must give the same bond as similar officials of towns are required to give, to be approved in the same manner. The valuation of property for the assessment of taxes in plantations, as well as the assessment, collection and disposal of taxes, shall be the same as in towns. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7008. Inventory of estates; basis of taxation; money for ways

The assessors first chosen in plantations organized under section 7001 shall immediately ascertain and list the value of the property in the plantation, in the same manner as done in towns. They shall return this list to the county commissioners of their county on or before the 15th day of May following

the election of the assessors. The county commissioners may examine and correct the list so as to make it conform to the last state valuation, and return a copy of this corrected valuation to the Treasurer of State. When this copy is returned to the Treasurer of State, the plantation's ratable proportion according to the corrected valuation of all state and county taxes shall be assessed on the plantations in the same manner as on towns. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Money for ways. Such plantations, and any other plantations that are required by special order of the Legislature to pay state or county taxes, may raise money by taxation for making and repairing ways in compliance with Title 23, sections 2001 and 3302.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. When valuation is taken. The valuation of property in any plantation shall be taken as required under this section, corrected and returned to the Treasurer of State, whenever required.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7009. Incorporation into town; first valuation

When towns are incorporated, the assessors of the town shall return to the county commissioners of their county the original valuation first taken in their towns, on or before the 15th day of May following the town's incorporation. The county commissioners shall examine and correct this valuation and return a copy of the valuation to the Treasurer of State. This corrected valuation shall be the basis of state and county taxes in the same manner as the valuations of plantations under section 7008. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7010. Failure to make and return valuation

If the valuation required by section 7008 or 7009 is not made and returned by any town or plantation, which is not within a primary assessing district or is not itself a primary assessing district, within the time specified, the county commissioners shall appoint 3 suitable persons of the county to be assessors in that town or plantation. These persons shall be sworn and make and return the valuation required within the time fixed by the commissioners. The county commissioners shall examine and correct this valuation and return a copy of the valuation to the Treasurer of State. This corrected valuation shall be the basis for the assessment of state and county taxes, in the same manner as if the valuation had been taken by the assessors chosen by the town or plantation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Assessors paid by county commissioners. Assessors appointed under this section shall be paid from the county treasury a reasonable compensation, to be determined by the county commissioners, for their services. Any sum paid to the assessors for compensation under this section shall be added to the county tax apportioned to the town or plantation and shall be collected and paid into the treasury in the same manner as county taxes.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

SUBCHAPTER 2

POWERS AND DUTIES

§7051. General powers and duties

Plantations have the same powers and duties, and are subject to the same restrictions, as a municipality under the following provisions of this Title: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. History and observances. Chapter 131;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Health, welfare and improvements. Chapter 151;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Municipal fire protection. Chapter 153;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Municipal forests. Chapter 155;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Parks, trees and playgrounds. Chapter 157;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Public dumps. Chapter 159;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Sewers and drains. Chapter 161;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Leasing of air rights. Chapter 165;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Regulations, licenses and permits. Part 2, Subpart 6;
[PL 2007, c. 35, §1 (AMD).]

9-A. Development districts for municipalities and plantations. Chapter 206, subchapter 1;
[PL 2011, c. 101, §28 (NEW).]

10. Tax base sharing. Chapter 223, subchapter 5; and
[PL 2007, c. 35, §2 (AMD).]

11. Ordinances. Chapter 141, but only with respect to animal control ordinances, subject to Title 7, section 3950, the sale and use of consumer fireworks within the plantation, subject to Title 8, section 223-A, and the accumulation of garbage, refuse, rubbish or trash or unwanted or discarded material of any kind or source on private property.
[PL 2019, c. 138, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 35, §§1-3 (AMD). PL 2011, c. 101, §28 (AMD). PL 2017, c. 3, §1 (AMD). PL 2019, c. 138, §1 (AMD).

§7052. Perambulation of boundary lines

Sections 2851 and 2852, which contain perambulation provisions for town lines, apply equally to plantations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7053. Vehicles on icebound inland lakes

For the purposes of regulating motor vehicles on icebound inland lakes, plantations have the same powers as municipalities under section 3009, subsection 1, paragraph E. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7054. Recreation

A plantation may acquire and maintain real estate and personal property for recreational purposes and may establish and conduct a recreational program. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Joint operation. A plantation may act jointly with another plantation or a municipality to establish and conduct a recreational program and may contract with another plantation or a municipality for its operation.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7055. Employment of historian

A plantation may appoint a historian and determine the historian's duties and compensation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7056. Plantation forest

A plantation may acquire land by purchase, gift or bequest for the purpose of forestation or to reclaim and plant forest trees upon that land. The assessors may appoint a forester whose duties are to make and enforce all necessary regulations and to care for and maintain the land as a forest producing area. A plantation may establish a plantation forest reserve account to fund the operation and maintenance of the forest in accordance with sections 5801 and 5802. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7057. Devises and gifts for open areas, public park and playground

Any plantation may receive, hold and manage devises, bequests or gifts for the establishment, increase or maintenance of public parks and playgrounds and open areas, as defined in section 2001, subsection 13, by plantation meeting vote. If any plantation receives any such bequest or gift, and that plantation is later incorporated into a town, the bequests and gifts and their proceeds fully vest in that town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7058. Conservation and energy commissions

Plantations may provide for a conservation commission or an energy commission as described in sections 3261 and 3271. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7059. Planning and land use regulation

Plantations are subject to chapter 187 regarding planning and land use powers and duties in the same manner as a town or city, except as otherwise provided in chapter 187. Any planning or land use ordinance related to buildings and equipment must comply with section 7060. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §54 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A54,C10 (RPR). PL 1989, c. 104, §§C8,10 (AMD).

§7060. Buildings and equipment

1. Ordinances regulating buildings and equipment required. Plantations adopting planning and zoning shall adopt ordinances:

A. Regulating the design, construction materials and construction of new buildings and additions to and alterations of existing buildings; regulating the alteration, demolition, maintenance, repair, use, change of use, safety features, light, ventilation and sanitation facilities of all buildings; regulating the installation, alteration, maintenance, repair and use of all equipment in or connected to all buildings; and requiring permits and establishing reasonable permit fees for all of the operations mentioned in this paragraph; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Establishing adequate standards for all features of means of exit, fire protection, fire prevention, accident prevention and structural safety of buildings that are used occasionally or regularly for public assembly; compelling the owners to make improvements to bring these buildings up to the established standards; requiring the owner or lessee of a building used for public assembly that is regulated by an ordinance authorized by this section and operated with the intent of financial gain to obtain a permit for which a fee may be imposed commensurate with its size or capacity; and requiring the owner or lessee of such a building to file a plan showing all safety features as a condition precedent to the issue of a permit or the further use of one already issued.

(1) The building official shall send a written order to the owner or lessee of a building used for public assembly requiring any conditions that exist in violation of an ordinance to be corrected within 30 days after the order is sent.

(2) After the 30-day period expires, the owner or lessee is strictly liable for all injury caused by the failure to correct the violations and the building official shall order the building vacated.

(3) As used in this section, "building used for public assembly" means a room or space in or on any structure that is used for the gathering of 100 or more persons for any purpose and includes any room or space on the same level, above or below, that has a common entrance; and [PL 2009, c. 261, Pt. B, §13 (AMD).]

C. Requiring persons, other than a dealer licensed by the State with a sales tax certificate issued by the State Tax Assessor, who intend to construct or locate in the plantation new manufactured housing, as defined in section 4358, subsection 1, to provide:

(1) A bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating the housing in the plantation; or

(2) Certification of payment of the sales tax in accordance with Title 36, section 1760, subsection 40 and Title 36, section 1952-B.

In any plantation which requires a permit for manufactured housing, the permit is deemed to be not approved or valid until payment of the sales tax has been certified with the assessors or the Maine Land Use Planning Commission. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §55 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 2011, c. 682, §38 (REV).]

[PL 2009, c. 261, Pt. B, §13 (AMD); PL 2011, c. 682, §38 (REV).]

2. Additional provisions. The provisions of this subsection apply to subsection 1.

A. The provisions pertaining to buildings apply equally to all structures and parts of them, including mobile and modular homes. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The building official is the licensing authority, unless otherwise provided by the plantation. [PL 2009, c. 261, Pt. B, §14 (AMD).]

C. Ordinances defining the duties of the building official and other enforcement officers, not contrary to Title 25, chapter 313, may be enacted. All enforcement officers designated by ordinance must be given free access at reasonable hours to all parts of buildings regulated by ordinance. [PL 2009, c. 261, Pt. B, §14 (AMD).]

D. An application for a permit must be in writing and must be signed by the applicant and directed to the building official. The failure of the building official to issue a written notice of the decision, directed to the applicant within 30 days from the filing of the application, constitutes a refusal of the permit. The building official may not issue any permit:

(1) For a building or use for which the applicant is required to obtain a license under Title 38, section 413, until the applicant has obtained that license; or

(2) For a building or use within a land subdivision, as defined in section 4401, unless that subdivision has been approved in accordance with that section. [PL 2009, c. 261, Pt. B, §14 (AMD).]

E. An appeal may be taken from any order issued by the building official or from the licensing authority's refusal to grant a permit.

(1) A person aggrieved by an order of the building official or a permit applicant may appeal in writing to the plantation assessors. At their next meeting following receipt of the appeal, the plantation assessors shall affirm, modify or set aside the decision of the building official according to the terms of the pertinent ordinance. They may permit a variation from the terms of an ordinance when necessary to avoid undue hardship, as long as there is no substantial departure from the intent of the ordinance. They may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the plantation. The failure of the plantation assessors to issue a written notice of their decision, directed to the applicant, within 30 days from the filing of the appeal constitutes a denial of the appeal. If a plantation has by ordinance required that all such appeals be taken to a board of appeals, the procedure must be the same as in appeals directed to the plantation assessors, unless the plantation has provided otherwise.

(2) An appeal may be taken from the decision of the plantation assessors or the board of appeals as provided in section 2691, subsection 3, paragraph G. [PL 2009, c. 261, Pt. B, §14 (AMD).]

[PL 2009, c. 261, Pt. B, §14 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A55,56 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2009, c. 261, Pt. B, §§13, 14 (AMD). PL 2011, c. 682, §38 (REV).

§7061. Land taken for parks, squares, open areas, public libraries and playgrounds

A plantation may acquire real estate or easements by using the condemnation procedure for town ways, as provided in Title 23, chapter 304, subject to the following provisions. The limitations set forth in this section do not apply to any taking authorized by any other law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Purposes. A plantation may acquire real estate or easements under this section for the following purposes:

A. Public park; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Squares; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Open areas, as defined in section 2001, subsection 13; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Playgrounds; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Buildings for plantation purposes; or [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. A public library building. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Limitation on use. Except as provided in paragraph A, land taken under this section may not be used for any purpose other than the purposes for which it was originally taken.

A. Land in any plantation which is taken for a public park, by authority of a majority vote of the plantation, may be conveyed to the Federal Government to become part of a national park. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Consent of owner required. A plantation may not take any land without the consent of the owner if at the time of the taking the land is occupied by a dwelling house in which the owner or the owner's family resides.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7062. Enhanced 9-1-1 addressing

A plantation may enact an ordinance to establish enhanced 9-1-1 addressing standards and, pursuant to that ordinance, may: [PL 1997, c. 409, §2 (NEW).]

1. Assign road names. Assign road names to existing and proposed roads;

[PL 1997, c. 409, §2 (NEW).]

2. Assign property numbers. Assign property numbers to existing and proposed year-round and seasonal dwellings or structures; and

[PL 1997, c. 409, §2 (NEW).]

3. Install signs. Install signs designating road names.

[PL 1997, c. 409, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 409, §2 (NEW).

§7063. Adult use marijuana

A plantation has the same powers and duties, and is subject to the same restrictions and requirements, as a municipality under section 4452, subsection 5, paragraph W and under Title 28-B, chapters 1 and 3. [PL 2017, c. 409, Pt. C, §4 (NEW).]

SECTION HISTORY

PL 2017, c. 409, Pt. C, §4 (NEW).

SUBCHAPTER 3

FISCAL MATTERS

§7101. Indebtedness; temporary loans

Plantations may borrow money in anticipation of taxes and issue general obligation securities in the manner provided for in chapter 223. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7102. Expenditures

All plantations may raise and expend money: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Schools. For school purposes as part of a school administrative unit, as defined in Title 20-A, section 1, subsection 26;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. General assistance. For general assistance programs as provided in Title 22, chapter 1161; and
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Other legal expenditures. For sums necessary for legal plantation expenses.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The property tax levy limits set forth in section 5721-A apply to the budgets and property tax levies of plantations. [PL 2005, c. 2, Pt. C, §2 (NEW); PL 2005, c. 2, Pt. C, §§3, 5 (AFF); PL 2005, c. 12, Pt. WW, §16 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2005, c. 2, §C2 (AMD). PL 2005, c. 2, §§C3,5 (AFF). PL 2005, c. 12, §WW16 (AFF).

§7103. Federal and state grants

Plantations organized before November 1, 1977, may apply for, accept and appropriate federal or state grants for any purpose which they are authorized by law to perform, either directly or through the State or a state agency. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Borrowing in anticipation. Notwithstanding any provisions in a charter or special Act of the Legislature, but subject to the constitutional limit on indebtedness, any plantation organized before November 1, 1977, which has contracted for and accepted an offer or a grant of federal or state aid, or both, for a particular project, may by vote of its assessors incur indebtedness in anticipation of the receipt of that aid for the particular project by issuing its general obligation notes payable in not more than one year. These notes may be renewed from time to time by the issue of other notes, provided that no notes may be issued or renewed in an amount which at the time of the issuance or renewal exceeds the unpaid amount of the federal or state aid in anticipation of which the notes are issued or renewed.

A. To any extent that the federal or state aid in anticipation of which the notes were issued when received exceeds the amount of the aid remaining to be paid under contract or accepted offer, plus the amount of any outstanding notes issued in anticipation of the aid, the remaining aid shall be kept in a separate account and used solely for the payment of any outstanding note. [PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Funds for educational purposes. The assessors of any plantation organized before November 1, 1977, may borrow in anticipation of any funds or reimbursements that the Legislature has authorized to be paid to plantations organized before November 1, 1977, for educational purposes during the municipal year. The notes shall be paid from those funds received for educational purposes from state agencies during the municipal year.

[PL 1987, c. 737, Pt. C, §2 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7104. Accounting and postaudit provisions

Sections 5821 to 5824 and 5826, which contain accounting and postaudit provisions for municipalities, apply equally to plantations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 302

DEORGANIZATION OF MUNICIPALITIES AND PLANTATIONS

§7201. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 216, §2 (NEW).]

1. Commission. "Commission" means the Commission on Municipal Deorganization as described in section 7206.

[PL 1989, c. 216, §2 (NEW).]

2. Executive director. "Executive director" means the Executive Director of the Legislative Council.
[PL 1989, c. 216, §2 (NEW).]

3. Local committee. "Local committee" means the local deorganization committee created under section 7203.
[PL 1989, c. 216, §2 (NEW).]

4. Municipality. "Municipality" means a city, town, village or plantation with a population of more than 50 people.
[PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW).

§7202. Petition for deorganization meeting

The voters of any municipality may petition for consideration of deorganization of the municipality by following the petition procedure of section 2528, subsection 5. On the written petition of a number of voters equal to at least 50% of the number of votes cast in the municipality at the last gubernatorial election, but in no case less than 10, requesting a municipal meeting for the purpose of discussing and determining whether the municipality should deorganize, the municipal officers shall call and hold a special meeting in the manner provided for the calling and holding of town meetings or city elections to discuss deorganization of the municipality and to decide whether to develop a deorganization procedure. [PL 2003, c. 297, §1 (AMD).]

The municipal officers shall also publish notice of the meeting in a newspaper of general circulation in the area. One notice shall be published as close to the 14th day before the meeting as possible, and the 2nd notice shall be published as close to the 7th day before the meeting as possible. [PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW). PL 2003, c. 297, §1 (AMD).

§7203. Deorganization meeting

The deorganization meeting shall be conducted in accordance with section 2524. The agenda of the meeting shall consist exclusively of the following. [PL 1989, c. 216, §2 (NEW).]

1. Discussion and reasons for deorganization. Discussion of deorganization and its impact on the residents of the municipality shall take place and the reasons for deorganizing shall be established and placed before the voters.
[PL 1989, c. 216, §2 (NEW).]

2. Voting on question to develop deorganization procedure. A vote shall be taken on the question of whether the municipality shall continue to pursue the process for deorganizing by developing a deorganization procedure which must be approved by the voters under sections 7207 and 7209.
[PL 1989, c. 216, §2 (NEW).]

3. Creation of local deorganization committee. If the majority of voters present and voting at this meeting approve the question to develop a deorganization procedure as provided in subsection 2, a local deorganization committee shall be created to develop the deorganization procedure. The local committee shall consist of the following 5 members:

A. One municipal officer selected by the municipal officers; [PL 1989, c. 216, §2 (NEW).]

B. One member of the local school board or committee selected by that board or committee, if one exists, or one member of a school board or committee who represents the municipality in a multi-municipality school administrative unit, selected by those members who represent the municipality upon that board or committee; and [PL 1989, c. 216, §2 (NEW).]

C. Three voters of the municipality, nominated and elected by the voters at the same town meeting or election which approved the development of a deorganization procedure. [PL 1989, c. 216, §2 (NEW).]

[PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW).

§7204. Notice to Legislature and fiscal administrator

If the voters approve the question to develop a deorganization procedure, the moderator shall notify the fiscal administrator of the unorganized territory within the Office of the State Auditor and the executive director. The notice shall report the results of the deorganization meeting and provide the reasons for deorganization of the municipality. [PL 1989, c. 216, §2 (NEW); PL 2013, c. 16, §10 (REV).]

1. Notice to Legislature. The executive director shall provide a copy of the notice to the joint standing committee of the Legislature having jurisdiction over local government matters.
[PL 1989, c. 216, §2 (NEW).]

2. Notice to commission. The fiscal administrator shall provide a copy of the notice to the commission.
[PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW). PL 2013, c. 16, §10 (REV).

§7205. Deorganization procedure

The local committee, with the assistance of the commission, shall develop a deorganization procedure which, at a minimum, shall consist of the following components. [PL 1989, c. 216, §2 (NEW).]

1. Effective date. The deorganization procedure shall establish a date on which deorganization will be effective.
[PL 1989, c. 216, §2 (NEW).]

2. Provision of educational services. The deorganization procedure shall provide for educational services, including school transportation services for all students in the municipality for which deorganization is proposed.

A. The Commissioner of Education is responsible for implementing this subsection for incorporation in the deorganization procedure. [PL 1989, c. 216, §2 (NEW); PL 1989, c. 700, Pt. A, §130 (AMD).]

B. The allowable tuition rate for students sent from one municipality to another in the former school administrative district shall be determined under Title 20-A, section 5805, subsection 1, except that it is not subject to the state per pupil average limitation in Title 20-A, section 5805, subsection 2. [PL 1989, c. 216, §2 (NEW).]

C. School transportation services are subject to Title 20-A, chapter 215. [PL 1989, c. 216, §2 (NEW).]

[PL 1989, c. 216, §2 (NEW); PL 1989, c. 700, Pt. A, §130 (AMD).]

3. Distribution of financial liabilities and assets. The deorganization procedure must provide for the distribution of all financial and other intangible liabilities and assets of the municipality, including liabilities and assets held by the municipality in any other political subdivision that are affected by the deorganization. These assets and liabilities include, but are not limited to, outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of deorganization. The service of all bonded indebtedness or other debt backed by a pledge of the full faith and credit duly authorized by the legal voters of the deorganizing municipality prior to deorganization remains the responsibility of the residents of the municipality and may not be transferred in whole or in part to the residents of a geographic area outside the boundaries of the deorganizing municipality unless that debt is properly reissued.

A. The commission is responsible for determining these assets and liabilities and incorporating these provisions in the deorganization procedure. [PL 1989, c. 216, §2 (NEW).]

B. Distribution of these assets and liabilities must be in accordance with chapter 303. [PL 2003, c. 297, §2 (AMD).]

[PL 2003, c. 297, §2 (AMD).]

4. Distribution of tangible assets and liabilities. The deorganization procedure shall provide for the distribution of all real and personal property and other tangible assets of the municipality, including real and personal property held by the municipality in any other political subdivision that is affected by the deorganization.

A. The State Tax Assessor is responsible for the identification of all real and personal municipal property in the municipality and the appropriate distribution of this property. [PL 1989, c. 216, §2 (NEW).]

B. This distribution shall be in accordance with chapter 303. [PL 1989, c. 216, §2 (NEW).]

[PL 1989, c. 216, §2 (NEW).]

5. Comprehensive land use planning and zoning. For municipalities not under the jurisdiction of the Maine Land Use Planning Commission, the Maine Land Use Planning Commission shall prepare a zoning map of the municipality within one year of the effective date of deorganization.

[PL 1989, c. 216, §2 (NEW); PL 2011, c. 682, §38 (REV).]

6. Information about municipality. The deorganization procedure shall include, at a minimum, the following information:

A. An explanation of the road network and costs to the municipality for road construction and maintenance for the most recent fiscal year; [PL 1989, c. 216, §2 (NEW).]

B. Population information, consisting of population changes since the latest Federal Decennial Census and any other population information, including ages of the population, numbers of households and similar information; [PL 1989, c. 216, §2 (NEW).]

C. Personal income, including individual and household income and changes in personal income derived from the United States Bureau of Census data and state agency estimates; [PL 1989, c. 216, §2 (NEW).]

D. Property tax assessments and revenues, including amounts of land subject to reduced tax assessments and changes in tax rates and property valuation; [PL 1989, c. 216, §2 (NEW).]

E. An explanation of the current services provided by the municipality and the impact of deorganization on these services; and [PL 1989, c. 216, §2 (NEW).]

F. The status of leadership in the municipality, including municipal officers, school board members, planning board members, road commissioners, social welfare officials and similar officials. [PL 1989, c. 216, §2 (NEW).]

In developing the deorganization procedure, the local committee shall work closely with the commission. The local committee shall submit the proposed deorganization procedure to the commission for review within 90 days of the meeting at which the voters approved the formulation of a deorganization procedure. If the local committee fails to develop a deorganization procedure within this period, the commission shall develop a procedure for the municipality and perform the duties of the local committee in submitting the procedure to the voters of the municipality.
[PL 1989, c. 216, §2 (NEW).]

7. Fiscal impact assessment. The municipality seeking to deorganize shall prepare a report that identifies and analyzes the service and tax burden effects on the deorganizing municipality, surrounding municipalities and the unorganized territory that is associated with the deorganization. The report must include:

A. The principal reason or reasons the inhabitants of the municipality are considering deorganization; [PL 2003, c. 297, §3 (NEW).]

B. An assessment of the government services being provided to the residents of the deorganizing municipality, including education, water and sewer service, fire protection, police protection, street improvements and maintenance, administrative services and recreational facilities and the effect deorganization will have on the provision of those services to the residents of the deorganizing municipality; [PL 2003, c. 297, §3 (NEW).]

C. An inventory of the municipally owned assets and a complete accounting of the municipality's debt and the financial plan for retiring that debt; [PL 2003, c. 297, §3 (NEW).]

D. The fiscal and service delivery effects of deorganization on surrounding municipalities, special districts, the county and the communities within the county, including the unorganized territory; and [PL 2003, c. 297, §3 (NEW).]

E. Any alternatives to deorganization that have been considered to address the cause of the deorganization effort. [PL 2003, c. 297, §3 (NEW).]

[PL 2003, c. 297, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW). PL 1989, c. 700, §A130 (AMD). PL 2003, c. 297, §§2,3 (AMD). PL 2011, c. 682, §38 (REV).

§7206. Commission on Municipal Deorganization

The Commission on Municipal Deorganization, as established in Title 5, chapter 379, shall assist local deorganization committees in formulating deorganization procedures. In addition, the commission shall review these deorganization procedures as provided in this chapter. [PL 1989, c. 216, §2 (NEW).]

1. Membership. The commission shall consist of the following 5 members:

A. The Commissioner of Education or the commissioner's designee; [PL 1993, c. 435, §10 (AMD).]

B. The fiscal administrator of the unorganized territory within the Office of the State Auditor or the administrator's designee; [PL 1989, c. 216, §2 (NEW); PL 2013, c. 16, §10 (REV).]

C. The State Tax Assessor or the assessor's designee; [PL 1989, c. 216, §2 (NEW).]

D. The director of the Maine Land Use Planning Commission or the director's designee; and [PL 1989, c. 216, §2 (NEW); PL 2011, c. 682, §38 (REV).]

E. The county commissioner whose district includes the municipality which is considering deorganization. [PL 1989, c. 216, §2 (NEW).]

[PL 1993, c. 435, §10 (AMD); PL 2011, c. 682, §38 (REV); PL 2013, c. 16, §10 (REV).]

2. Responsibilities. The commission shall:

A. Assist municipalities in preparing deorganization procedures and provide the information required in section 7205; [PL 1989, c. 216, §2 (NEW).]

B. Review each deorganization procedure and provide comments and suggestions with respect to the procedure; [PL 1989, c. 216, §2 (NEW).]

C. Recommend alternatives to deorganization if the commission finds that feasible alternatives exist; [PL 1989, c. 216, §2 (NEW).]

D. Within 30 days after receiving the proposed deorganization procedure, provide copies of its review and comments on the deorganization procedure to the municipal officers, the local deorganization committee and to the executive director, who shall provide it to the joint standing committee of the Legislature having jurisdiction over local government matters; and [PL 1989, c. 216, §2 (NEW).]

E. Develop a deorganization procedure, as provided in section 7205, subsection 6, for a municipality whose local deorganization committee fails to do so. [PL 1989, c. 216, §2 (NEW).]
[PL 1989, c. 216, §2 (NEW).]

3. Chair. The 4 commission members who are state officials shall annually elect a chair from among those state officials.
[PL 1989, c. 216, §2 (NEW).]

4. Fiscal agent. The fiscal administrator of the unorganized territory within the Office of the State Auditor shall be the fiscal agent for the commission.
[PL 1989, c. 216, §2 (NEW); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW). PL 1989, c. 700, §A131 (AMD). PL 1993, c. 435, §10 (AMD). PL 2011, c. 682, §38 (REV). PL 2013, c. 16, §10 (REV).

§7207. Public hearing and meeting on deorganization procedure

The local committee may incorporate the comments and suggestions received from the commission into the deorganization procedure. The local committee shall immediately notify the municipal officers and the county commissioners of the county where the municipality considering deorganization is located when the deorganization procedure has been completed. [PL 2003, c. 297, §4 (AMD).]

1. Public hearing. The municipal officers shall hold a public hearing on the proposed deorganization procedure at least 14, but not more than 30, days before the municipal meeting or election called by the municipal officers under subsection 2.

A. At least 14 days before the public hearing, the municipal officers shall announce the public hearing in the same manner as provided for the calling of town meetings or city elections. The municipal officers shall also publish notice of the hearing in a newspaper of general circulation in the area. One notice shall be published as close as possible to the 14th day before the hearing, and the 2nd notice shall be published as close as possible to the 7th day before the hearing. [PL 1989, c. 216, §2 (NEW).]

B. If any of the comments and suggestions of the commission have not been incorporated in the deorganization procedure, the local committee shall present these comments and suggestions for discussion at the public hearing. [PL 1989, c. 216, §2 (NEW).]
[PL 1989, c. 216, §2 (NEW).]

2. Deorganization approval vote. After receiving notice from the local committee that the deorganization procedure is complete, the municipal officers shall immediately call and hold a special meeting in the manner provided for the calling and holding of town meetings or city elections to vote on the proposed deorganization. The municipal officers shall also publish notice of the meeting in a newspaper of general circulation in the area. One notice shall be published as close as possible to the 14th day before the meeting, and the 2nd notice shall be published as close as possible to the 7th day before the meeting. If a majority of the voters approve the deorganization procedure as presented or amended, the local deorganization committee shall send a copy of the proposed procedure to the commission and to the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over local government matters. If the deorganization procedure approved at the hearing is not different from the one provided to the commission under section 7205, the local deorganization committee shall notify the commission that the voters approved the procedure as presented by the committee.
[PL 1989, c. 216, §2 (NEW).]

2-A. Advisory referendum in unorganized territory. After receiving notice from the local committee that the deorganization procedure is complete, the county commissioners may hold an advisory referendum on the deorganization in the unorganized territory in the county according to the procedures provided in this subsection. The county commissioners may not hold an advisory referendum until a system for identifying voters in the unorganized territory is established. Any advisory referendum must be held within 60 days of the receipt of notice from the municipality that the deorganization process is complete.

The method of voting must be by secret ballot in the manner prescribed for state elections. The county commissioners shall notify the residents of the unorganized territory of the date on which the referendum will be held. The county clerk shall prepare the ballots on which the following question must appear:

"Do you support the deorganization of (name of municipality)?"

The legal voters of the unorganized territory shall vote by ballot on this question and shall designate their choice by a cross or check mark placed within a corresponding square below the words "Yes" or "No." The ballots must be received, sorted and counted by the county clerk, and the county commissioners shall declare the results of the vote. The county clerk shall file a certificate of the advisory referendum results with the Secretary of State within 10 days of the advisory referendum. The clerk shall forward the results of the advisory referendum to the commission and to the executive director, who shall forward the results of the vote to the joint standing committee of the Legislature having jurisdiction over local government matters.
[PL 2003, c. 297, §5 (NEW).]

3. Commission review. The commission shall review the deorganization procedure. If it is different from the procedure presented to the commission under section 7205, the commission shall send a copy of its comments on the amended procedure to the local deorganization committee, the municipal officers and the executive director who shall forward the comments to the joint standing committee of the Legislature having jurisdiction over state and local government matters.
[PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW). PL 2003, c. 297, §§4,5 (AMD).

§7208. Approval by the Legislature

Any municipality which has approved a deorganization procedure under section 7207 shall request and must obtain approval by the Legislature before seeking approval by the voters of the municipality under section 7209. [PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW).

§7209. Final approval by the voters

If the Legislature approves the deorganization, the question concerning deorganization shall be presented to the voters of the municipality in the next general election to be held in November. The election shall be called, advertised and conducted according to section 2528 or 2551. [PL 1989, c. 216, §2 (NEW).]

1. Question posed to voters. The municipal clerk shall prepare the ballots on which the following question shall appear:

"Shall the (name of municipality) be deorganized?"

[PL 1989, c. 216, §2 (NEW).]

2. Requirements for approval. The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, the deorganization must be approved by at least 2/3 of the voters voting in the general election and the total number of votes cast for and against deorganization at the election must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.
[PL 1989, c. 216, §2 (NEW).]

3. Declaration of results. The municipal officers shall declare the result of the vote. The municipal clerk or the assessors of plantations shall file a certificate of the election result with the Secretary of State within 10 days of the election.
[PL 1989, c. 216, §2 (NEW).]

4. Limitation. If the voters of a municipality reject deorganization in a vote held pursuant to this section, the municipality may not submit a deorganization plan to the Legislature for a period of 3 years from the date of that vote.
[PL 2003, c. 696, §16 (AMD).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW). PL 2003, c. 297, §6 (AMD). PL 2003, c. 696, §16 (AMD).

§7210. Process for municipalities with a population of 50 or fewer

Municipalities with a population of 50 or fewer may follow the entire process established in this chapter. Following voter approval to pursue the process of deorganization under section 7203, subsection 2, municipalities with a population of 50 or fewer may request the commission to develop the deorganization procedure for the municipality. Municipalities which request the commission to develop the deorganization procedure are subject to sections 7202; 7203, except subsection 3; 7204; 7208; and 7209. [PL 1989, c. 216, §2 (NEW).]

1. Approval by voters. The commission shall notify the municipal officers that a deorganization procedure has been developed. The municipal officers shall immediately call and hold a public hearing and municipal meeting as provided in section 7207 for the purpose of presenting information to the voters with respect to deorganization and any alternatives to deorganization prepared by the commission for a municipality. If a majority of the voters approve the deorganization procedure at the municipal meeting, the municipality shall request and must obtain approval by the Legislature as described in section 7208 and approval by the municipal voters under section 7209.
[PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW).

§7211. Calling of meeting if officers refuse

If the municipal officers refuse to call any municipal meeting required by this chapter, a meeting may be called as provided in section 2521, subsection 4. [PL 1989, c. 216, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 216, §2 (NEW).

CHAPTER 303

DEORGANIZED PLACES

§7301. Applicability to deorganization by Legislature

This chapter applies to any municipalities or plantations that are or have been deorganized by Act of the Legislature. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7302. Records surrendered

Whenever any municipality is deorganized, the municipality shall surrender all its records to the State Archivist. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7303. Debts of municipalities and school districts therein

When municipalities are deorganized by a repeal of their charters, and their liabilities are excepted and reserved by the repealing act, legal service of process to collect those liabilities may be made on any inhabitant of lawful age residing in the territory included in the municipality, provided that there are no legal officers in that territory on whom service can be made. This section extends to school districts in deorganized municipalities so far as applicable. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

§7304. Power and authority of State Tax Assessor

Whenever the organization of any municipality or plantation has been terminated by Act of the Legislature, the powers, duties and obligations relating to the affairs of that municipality or plantation are vested in the State Tax Assessor for not more than 5 years. The real and personal property of the municipality or plantation shall be held by the State Tax Assessor and used as described in this chapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Powers of State Tax Assessor. The State Tax Assessor may:

A. Subject to the restriction in subparagraph (1), sell or otherwise dispose of any property which the municipality or plantation holds title to at the time of deorganization or may receive title to after deorganization. When disposing of property, the State Tax Assessor shall ensure that the interests of the residents of the unorganized territory are the most important consideration.

(1) In the case of school property, the State Tax Assessor shall consult with the Commissioner of Education; and [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 700, Pt. A, §132 (AMD).]

B. Assess taxes any time after the act terminating the organization of the municipality or plantation takes effect by making assessment once a year under the laws relating to the assessment of property taxes in unorganized territory.

(1) The State Tax Assessor may make additional assessments in the same manner against the property owners in the deorganized municipality or plantation to provide funds to pay the debts of the municipality or plantation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 700, Pt. A, §132 (AMD).]

2. Use of money. All money received under this section shall be applied:

A. To pay the necessary expenses of the State Tax Assessor in making assessments under subsection 1; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. To pay any obligation of the municipality or plantation outstanding at the time its organization is terminated; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. To pay taxes assessed against the municipality or plantation; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. To complete any public works of the municipality or plantation already begun. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Surplus funds and property. At the end of the 5-year period, or when in the judgment of the State Tax Assessor final payment of all known accounts against the municipality or plantation has been made, any funds which have not been expended shall be deposited with the county commissioners as undedicated revenue for the unorganized territory fund of that county. Any property of the municipality or plantation which has not been sold shall be held by the State in trust for the unorganized territory or transferred to the county to be held in trust for the unorganized territory. Income from the sale or use of the property shall be used as described in Title 36, section 1604.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 700, §A132 (AMD).

§7305. Cemetery trust funds

The State Tax Assessor may transfer any cemetery trust funds held by a municipality at the time of deorganization to a cemetery association, provided that association is formed under the laws of the State. If no such association exists, the State Tax Assessor may transfer the funds to the county commissioners. These funds are to be retained for the purpose of allowing the interest only to be used in the same manner and for the same purposes for which the fund was originally accepted by the deorganized municipality. If the funds are in the care and custody of the county commissioners and a cemetery association is subsequently formed, the county commissioners may transfer the funds to the cemetery association. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

CHAPTER 305

MUNICIPAL SERVICES IN UNORGANIZED AREAS

§7501. Municipal services authorized

The county commissioners of each county may provide or contract for the provision of the following municipal services for the residents of the unorganized territory in their county: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Fire protection. Fire protection other than forest fires;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Solid waste. Solid waste management;
[PL 2007, c. 541, Pt. F, §1 (RPR).]

3. Roads and bridges. Construction, repair and maintenance of roads and bridges, including snow removal, except that the county commissioners may not expend money for improvements, maintenance or snow removal on any privately owned road within the unorganized territory in which the county has not acquired any property interest. The county commissioners may enact an ordinance to establish road standards for the purpose of preserving, protecting and maintaining roads in which the county has acquired a property interest;
[PL 2007, c. 541, Pt. G, §1 (AMD).]

4. Polling places. Establishment of polling places under Title 21-A, section 632;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Administrative services. Coordination of services provided, payment of expenses, administration of the unorganized territory fund. The amount charged for administrative services may not exceed 5% of the budget for the unorganized territory established under section 7503 for the year;
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5-A. Watershed districts. Participation in watershed management districts organized under Title 38, chapter 23;
[PL 1993, c. 721, Pt. E, §1 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

6. Other services. Any other service that a municipality may provide for its inhabitants and that is not provided by the State;
[PL 1995, c. 607, §1 (AMD).]

7. Law enforcement. Law enforcement;
[PL 1999, c. 106, §1 (AMD).]

8. Enhanced 9-1-1 service. Assigning and maintaining physical addresses specifically for the purpose of statewide enhanced 9-1-1 service. The county commissioners may enact an ordinance to establish the addressing standards and, pursuant to that ordinance, may assign road names to existing and proposed roads and property numbers to existing and proposed year-round and seasonal dwellings or structures and may install signs designating road names; and
[PL 1999, c. 106, §2 (AMD).]

9. Animal control. Animal control services. The county commissioners may enact an ordinance for the purpose of animal control. The county commissioners shall give 14 days notice of the meeting at which the ordinance is to be proposed in the manner provided for town meetings.
[PL 1999, c. 106, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 721, §E1 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1995, c. 607, §§1,2 (AMD). PL 1999, c. 106, §§1-3 (AMD). PL 2007, c. 541, Pt. F, §1 (AMD). PL 2007, c. 541, Pt. G, §1 (AMD).

§7502. Unorganized territory funds

1. Fund established. There is established in each county one unorganized territory fund to which must be credited all receipts under Title 12, section 10203 and Title 36, sections 1487, 1505, 1606 and 1612 and all other receipts that are allocated for municipal services in the unorganized territory, and from which all disbursements for municipal services in the unorganized territory are made.
[PL 2017, c. 193, §1 (AMD).]

2. Prior receipts and surpluses. All money received by the county for municipal services for the unorganized territory before September 23, 1983, and remaining unspent shall be deposited into the fund. Any surplus in revenue remaining in the fund at the end of the year, not including amounts allocated to the contingent account or set aside in capital reserve accounts established after November 1, 1983, which is in excess of 10% of the amount of expenditures for that year, shall be used to reduce the amount to be collected in taxes during the next year.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Commingling; interest. This fund shall be accounted for separately from the funds raised for countywide activities. The return on investment of unorganized territory funds shall be credited to those funds and shall be used only for the unorganized territories. No countywide funds, nor return on investments of countywide funds, may be used to fund expenditures for services that a county is providing to unorganized territories in place of municipal government.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Uses of the fund. The fund may be used for any of the services authorized in section 7501 in any area of the unorganized territory of the county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Contingent account. The county commissioners may establish within the fund a contingent account not to exceed $25,000 annually. Funds within the contingent account may be transferred to any other account within the fund when those accounts are not sufficient to meet the needs for municipal services to the unorganized territory of the county.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Capital reserve accounts. The county commissioners may establish capital reserve accounts by following the procedures specified in section 921.
[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2003, c. 414, §B47 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2007, c. 541, Pt. F, §2 (AMD). PL 2017, c. 193, §1 (AMD).

§7503. Budget

1. Procedure. Before November 7th of each year, the county commissioners of each county shall provide to the members of the county legislative delegation a preliminary budget for the services to be provided under this chapter to the unorganized territory in the next year. These preliminary budgets shall be provided in a form that shows how the funds are to be spent for each category of service identified in section 7501 and any projected surplus for the year of unorganized territory funds held by the county. The county commissioners shall provide an opportunity for public comment on the preliminary budget at the same time as a public hearing is held on the county budget, as provided under Part 1, chapter 3, subchapter I.

The budget for the unorganized territory shall be finalized at the same time as the regular county budget. A copy of the finalized budget and an accurate identification of any surplus which can be used to reduce the amount needed to be collected in taxes shall be submitted to the State Tax Assessor and to the fiscal administrator of the unorganized territory by January 1st of each year.
[PL 1989, c. 502, Pt. C, §12 (NEW).]

2. Budget year. Each budget year shall cover the period of July 1st to June 30th following the date the budget is provided.
[PL 1989, c. 502, Pt. C, §12 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 502, §C12 (RPR).

§7504. Service fees

1. Authority. The county commissioners of each county may impose a service fee on recipients of eligible services, as described in subsection 2, provided in the unorganized territory.
[PL 2007, c. 541, Pt. A, §1 (NEW).]

2. Eligible services. For the purposes of this section, eligible services include:

A. Solid waste management; [PL 2007, c. 541, Pt. A, §1 (NEW).]

B. Structural fire protection; [PL 2007, c. 541, Pt. A, §1 (NEW).]

C. Ambulance and emergency medical services; [PL 2007, c. 541, Pt. A, §1 (NEW).]

D. Law enforcement; [PL 2007, c. 541, Pt. A, §1 (NEW).]

E. Animal control; and [PL 2007, c. 541, Pt. A, §1 (NEW).]

F. Other services provided to property owners or residents in a limited geographic area. [PL 2007, c. 541, Pt. A, §1 (NEW).]

[PL 2007, c. 541, Pt. A, §1 (NEW).]

3. Conditions. A service fee imposed under this section must be:

A. Based on the actual cost of providing the service; [PL 2007, c. 541, Pt. A, §1 (NEW).]

B. Imposed only on persons eligible for or actually receiving the service; and [PL 2007, c. 541, Pt. A, §1 (NEW).]

C. Imposed on all similarly situated persons eligible for or actually receiving the service. [PL 2007, c. 541, Pt. A, §1 (NEW).]

[PL 2007, c. 541, Pt. A, §1 (NEW).]

4. Use of revenues. Revenues received under this section must be used to reduce the amount requested to be raised through property taxes under Title 36, chapter 115.

[PL 2007, c. 541, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 541, Pt. A, §1 (NEW).

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