

DRAFT – LANGUAGE

Committee: IDEA
Drafter: RO
File Name:
LR (item)#: 1520(02)
New Title?: No
Add Emergency?: No
Date: February 23, 2022

Proposed **DRAFT** Amendment for Representative Hasenfus to
LD 1694
An Act To Create the Maine Redevelopment Land Bank Authority

Be it enacted by the People of the State of Maine as follows:

Amend section 1 of the bill as follows (changes highlighted):

Sec. 1. 5 MRSA §12004-G, sub-§7-G is enacted to read:

7-G.
Community-Maine Expenses Only **30-A MRSA §5153**
Redevelopment Land Bank
Authority

Amend the bill by inserting a new section as follows (changes highlighted):

Sec. 2. 5 MRSA §12004-I, sub-§6-J is enacted to read:

Economic Development Ready Not Authorized? **30-A MRSA §5162**
Development Community Planning OR
Committee Expenses Only?

Commented [OR1]: Will need direction on this section.

Amend section 2 of the bill as follows (changes highlighted):

Sec. 2. 30-A MRSA c. 204 is enacted to read:

CHAPTER 204

COMMUNITY-MAINE REDEVELOPMENT LAND BANK AUTHORITY

§5151. Title

This chapter may be known and cited as "the Community-Maine Redevelopment Land Bank Act."

§5152. Findings and declaration of necessity

The Legislature finds and declares that:

1. Blighted, abandoned, environmentally hazardous and functionally obsolete property burdens public resources. There exist areas in the State in need of economic revitalization where blighted, abandoned and environmentally hazardous property and property that is both functionally obsolete and unfit to be repurposed for another use present burdens on municipal revenues and public health and safety;

2. Need for revitalization. In order to strengthen and revitalize the economy of the State and municipalities, it is in the best interest of the State to assemble and dispose of blighted, abandoned and environmentally hazardous property and property that is both functionally obsolete and unfit to be repurposed for another use in a coordinated manner to foster development of that property and promote economic growth;

3. Coordinated development of blighted, abandoned, environmentally hazardous and functionally obsolete property serves the public interest. The planning and preparation of revitalizing the economy through the acquisition of blighted, abandoned and environmentally hazardous property and property that is both functionally obsolete and unfit to be repurposed for another use using public money are a governmental concern and serve a valid public purpose; and

4. Facilitate coordinated redevelopment of blighted, abandoned, environmentally hazardous and functionally obsolete property. The establishment of the redevelopment authority is necessary to facilitate the relief of the conditions described in this section by assisting local, state and federal agencies and private entities in the redevelopment of blighted, abandoned and environmentally hazardous property and property that is both functionally obsolete and unfit to be repurposed for another use into economically productive use. Properties identified as historic are not excluded from redevelopment as described in this subchapter if they meet the other criteria described in this subchapter.

§5153. Community Maine Redevelopment Land Bank Authority established; purpose

The Community Maine Redevelopment Land Bank Authority, as established in Title 5, section 12004-G, subsection 7-G and referred to in this chapter as "the redevelopment authority," is established and is a body corporate and politic and ~~an~~ a public instrumentality of the State.

The purpose of the redevelopment authority is to assist municipalities in the assembly and clearance of title to, and acquisition of, property identified as blighted, abandoned, environmentally hazardous or functionally obsolete that has documented potential to be used and developed in a way that will promote economic growth within the municipality and the State. The transfer of property to the redevelopment authority by a municipality may be facilitated through its legislative body or through a municipal development authority.

The purpose of the redevelopment authority is to assist municipalities and other entities in this State in the redevelopment of eligible properties in order to return those eligible properties to a use that will promote economic growth.

The purposes of this chapter are public and the redevelopment authority is performing a governmental function in carrying out this chapter.

§5154. Appointment; qualifications and tenure

1. Members appointed by the Governor. The Governor shall appoint 9 members to serve as commissioners of the redevelopment authority subject to review by the joint standing committee of the Legislature having jurisdiction over economic and community development matters. These members must include:

DRAFT – LANGUAGE

- A. A resident of the State who is a designated broker member of a statewide real estate commission;
- B. A resident of the State who is responsible for community redevelopment as an employee of a state-chartered bank;
- C. A resident of the State from each of the 2 congressional districts;
- D. A full-time municipal economic and community development director in the State;
- E. A full-time planning professional employed by an urban or regional planning organization in the State;
- F. A person with experience in the field of preservation of historic property;
- G. A person with experience in environmental remediation of commercial property; and
- H. A person with experience in the development of residential communities and housing development.

2. Term of office. The commissioners of the redevelopment authority appointed under subsection 1 serve 3-year terms, except that the Governor shall initially appoint 2 commissioners for a term of one year, 3 commissioners for a term of 2 years and 4 commissioners for a term of 3 years. A vacancy is filled by appointment for the remainder of the unexpired term of that commissioner. Commissioners whose terms expire serve until their successors are appointed and confirmed. Commissioners may serve no more than 2 full consecutive terms.

3. Ex officio members. The following serve as ex officio, nonvoting members of the redevelopment authority:

- A. The Commissioner of Economic and Community Development or the commissioner's designee;
- B. The Commissioner of Environmental Protection or the commissioner's designee;
- C. The Director of the Maine State Housing Authority or the director's designee; and
- D. The Commissioner of Transportation or the commissioner's designee; and
- E. The Director of the Maine Historic Preservation Commission or the director's designee.

4. Organization. The redevelopment authority shall select a chair and a vice-chair from among its voting members and adopt bylaws to govern procedures. The redevelopment authority shall may hire an executive director and may hire staff and employ counsel as necessary.

§5155. Community Redevelopment Land Bank Fund; sources of funding

The Community Redevelopment Land Bank Fund, referred to in this chapter as "the fund," is established as a dedicated nonlapsing fund to support the purposes of the redevelopment authority. Fees collected pursuant to Title 38, section 2203-A, subsection 2-A must be deposited into the fund. Other sources of funding may include, but are not limited to, state or federal funds received by the redevelopment authority or municipal redevelopment authorities to support community redevelopment.

Unless otherwise specified, money received by the redevelopment authority for the express purpose of acquiring or developing property in accordance with this chapter must be deposited into the fund.

§5156. Creation of municipal authorities

1. Creation of authorities. In each municipality in the State there may be created a public body corporate and politic to be known as "the municipal redevelopment authority" of the municipality. A municipal redevelopment authority may not exercise any powers under this chapter unless the municipal legislative body declares by resolution that there is a need for a municipal redevelopment authority to function in that municipality.

2. Procedure. A municipal legislative body shall consider the need for a municipal redevelopment authority on its own motion or upon the filing of a petition signed by 25 residents registered to vote in the municipality requesting that the municipal legislative body declare the need for a municipal redevelopment authority.

3. Standard. A municipal legislative body shall adopt a resolution declaring that there is a need for a municipal redevelopment authority in the municipality if it finds that:

A. Blighted, abandoned, environmentally hazardous and functionally obsolete property exists in the municipality, burdening municipal resources; and

B. Redevelopment of blighted, abandoned, environmentally hazardous and functionally obsolete property could provide opportunity for economic development.

4. Appointment of commissioners. Upon the adoption of a resolution by a municipal legislative body under subsection 3, the mayor of the city or the chair of the municipal legislative body shall appoint commissioners to the municipal redevelopment authority. The municipal redevelopment authority is composed of 5 local commissioners to be appointed as follows.

A. Of the commissioners initially appointed under this subsection, 4 serve for terms of one, 2, 3 and 4 years, respectively, from the date of their appointment and the remaining appointee serves a 5 year term. 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.

B. The commissioners must be residents of the municipality, some of whom have experience in real estate development, banking or finance and community planning.

5. Organization. A municipal redevelopment authority shall elect a chair and a vice chair from among its commissioners and adopt bylaws governing the municipal redevelopment authority's procedures. A municipal redevelopment authority may employ a secretary, who is the executive director of the municipal redevelopment authority, and may employ its own counsel and legal staff. A commissioner is not entitled to compensation except for reimbursement of travel expenses incurred in the discharge of duties.

§5157. Application-Eligible properties; Exemption of certain properties

1. Application-Eligible properties. All blighted, abandoned, environmentally hazardous and functionally obsolete property, including but not limited to property identified as historic, is subject to

DRAFT – LANGUAGE

the provisions of this subchapter except as specifically exempt pursuant to subsection 2. The redevelopment authority may not acquire property through an agreement under section 5161, subsection 1, unless the redevelopment authority determines that the property is:

A. Blighted property, which means a property on which buildings or improvements are detrimental or are a threat to the public health, safety or welfare in its present condition and use 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) Tax or special assessment delinquency exceeding the fair value of the land;
- (5) The existence of conditions that endanger life or property by fire and other causes; or
- (6) Any combination of these factors;

B. Abandoned property, which means a property that is vacant and the occupant has no intent to return as demonstrated by evidence including, but not limited to, the following:

- (1) Doors and window on the property are continuously boarded up, broken or left unlocked;
- (2) Rubbish, trash or debris has observably accumulated on the property;
- (3) Furnishing and personal property are absent from the property;
- (4) The buildings or improvements on the property are deteriorating so as to constitute a threat to public health or safety;
- (5) Gas, electric or water service to the property has been terminated or utility consumption is so low that it indicates the property is not regularly occupied;
- (6) A mortgagee has changed the locks on the property and neither the mortgagor nor anyone on the mortgagor's behalf has requested entrance to, or taken other steps to gain entrance to, the property;
- (7) Reports of trespassers, vandalism or other illegal acts being committed on the mortgaged premises have been made to local law enforcement authorities;
- (8) A code enforcement officer or other public official has made a determination or finding that the property is abandoned or unfit for occupancy;
- (9) The mortgagor is deceased and there is no evidence that an heir or personal representative has taken possession of the property; and
- (10) Other reasonable indicia of abandonment;

C. Property designated as an uncontrolled hazardous substance site under Title 38, section 1365; or

D. Functionally obsolete property, which means a property that is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

2. Exemption. Notwithstanding any provision of this chapter to the contrary, the redevelopment authority may not:

A. Acquire any real property owned by a federally recognized Indian tribe or land owned by a federally recognized Indian tribe, including reservation land and land held in trust;

Commented [OR2]: Recommend having a member of Maine tribes weigh in on this language.

B. Acquire land the majority of which is unimproved or is not integral to the redevelopment of the property; or

C. Acquire property that is an active or former military facility that qualifies for inclusion in the Defense Environmental Restoration Program under 10 United States Code, Section 2701.

SUBCHAPTER 2

POWERS AND DUTIES

§5161. Powers and duties generally *(NOTE: Will need to be reordered)*

The Community Maine Redevelopment Land Bank Authority has the following powers and duties:

1. Intergovernmental agreements. To enter into intergovernmental agreements with municipalities or municipal redevelopment authorities for transfer to the redevelopment authority property for title clearance, disposal of property and the return of property under the control of the redevelopment authority to the municipal redevelopment authority for redevelopment purposes.

1. Agreements with public entities. To enter into agreements with any public entity, including, but not limited to, municipalities, counties, regional planning organization and state agencies in order to effectuate the purposes of this chapter. Agreements may include the acquisition of property or rights in that property.

2. Agreements with federal agencies. To enter into agreements with federal agencies related to funding of the redevelopment of property acquired in accordance with this chapter;

3. Interagency agreements. To enter into agreements with other state agencies for the purpose of redevelopment of property acquired in accordance with this chapter.

4. Issuance of bonds and a Application for funding. To issue bonds and other obligations and apply for grants, loans and other financial assistance from state or federal government programs for redevelopment projects consistent with this chapter;

5. Bonds. Issue revenue bonds as provided in this chapter;

5. Eminent domain. To acquire in a municipality, with a municipal redevelopment authority all or any part of a property that is blighted, abandoned, environmentally hazardous or functionally obsolete by the exercise of the power of eminent domain in the same manner as described by section 5108; and through an agreement as described in subsection 1, any real property which the redevelopment authority considers necessary for its purposes of this chapter. The redevelopment authority must first adopt a resolution declaring that the acquisition of the real property described in the resolution is necessary for those purposes. The redevelopment 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;

6. Legislation. To submit legislation to carry out the purposes of this chapter, including but not limited to creating an expedited foreclosure process for property appropriate for transfer to the redevelopment authority and the purposes of the chapter and to implement statewide community development guidelines established pursuant to section 5162.

7. Suit. To sue and be sued;

8. Seal. To adopt and have an official seal and alter that seal at pleasure;

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

10. Rules. Adopt rules, including its bylaws, for the purposes of carrying out this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A;

11. Assistance. Assist entities engaged in redevelopment activities within the State according to the guidelines and best practices adopted by the Development Ready Community Planning Committee under section 5162; and

12. Other functions. Perform other function necessary or useful for carrying out any of its powers, duties or purposes.

Insert NEW SECTION –

§51XX. Bonds

1. Authorization. The redevelopment authority may provide by resolution for the issuance of bonds for the purpose of funding the Maine Redevelopment Land Bank Fund, or any successor to the fund. The bonds of the redevelopment authority do not constitute a debt of the State or of any agency or political subdivision of the State other than the redevelopment authority but are payable solely from the revenue of the redevelopment authority, and neither the faith nor credit nor taxing power of the State or any political subdivision of the State other than the redevelopment authority is pledged to payment of the bonds. Notwithstanding any other provision of law, any bonds issued pursuant to this subchapter are fully negotiable. If any commissioner of the redevelopment authority whose signature appears on the bond or coupons ceases to be a commissioner of the redevelopment authority before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that commissioner of the redevelopment authority had remained a commissioner of the redevelopment authority until delivery.

2. General characteristics. The redevelopment authority may, by resolution, provide:

A. The manner of executing bonds and coupons;

B. The form and denomination of bonds or coupons;

C. Maturity dates;

D. Interest rates on bonds or coupons;

E. For redemption prior to maturity and the premium payable;

F. The place or places for the payment of interest and principal;

G. For registration if the redevelopment authority determines it be desirable;

H. For the pledge of all or any of the revenue for securing payment:

I. For the replacement of lost, destroyed or mutilated bonds:

J. For the setting aside and the regulation and disposition of reserve and sinking funds:

K. For limitation on the issuance of additional bonds:

L. For the procedure, if any, by which the contract with a bondholder may be abrogated or amended:

M. For the manner of sale and purchase of bonds:

N. For the issuance of bonds in a series; and

O. Any other matter relating to the bonds that the redevelopment authority determines appropriate.

3. Liability. No member or employee of the authority nor any person executing the bonds may be liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

4. Trust indenture. In the discretion of the commissioner of the redevelopment authority, bonds may be secured by a trust indenture by and between the redevelopment authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, located either within or outside the State. Such a trust indenture may pledge or assign the revenues of the redevelopment authority or any part of it. Any trust indenture may set forth the rights and remedies of the bondholders and the trustee, restrict the individual right of action of bondholders and contain such other provisions as the commissioners of the redevelopment authority may consider reasonable and proper for the security of bondholders. Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

5. Rights of bondholders. Provisions may be made for protecting and enforcing the rights and remedies of bondholders, including covenants as to acquisition of property, construction, maintenance, operation and repair, insurance and the custody, security and application of all money.

6. Depositories. Any trust company or bank having the powers of a trust company and located either within or outside the State may act as a depository of the proceeds of bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the authority.

7. Tax free. The purposes of this subchapter being public and for the benefit of the people of the State, bonds of the authority are free from taxation by the State.

8. Revenue refunding bonds. The authority may issue revenue refunding bonds for the purpose of refunding revenue bonds issued under this subchapter. The issuance of any refunding bonds is the same as provided for in this subchapter relating to revenue bonds.

9. Default. In the event of default on bonds and in the event the default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the commissioners be in conformity with the covenants of the bonds or trust indenture.

Insert NEW SECTION –

§51XX. Interests of commissioner or employee

1. Acquisition of interest. A commissioner of the redevelopment authority or employee of the redevelopment authority may not acquire or hold a direct or an indirect personal financial interest in:

A. A redevelopment authority activity;

B. Property included, planned to be included or expected to directly benefit from a redevelopment authority activity; or

C. A contract or proposed contract in connection with a redevelopment authority activity.

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the redevelopment authority and the disclosure must be entered in the commissioners' minutes.

2. Present or past interest in property. If a commissioner of the redevelopment authority or employee of the redevelopment authority presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in a redevelopment authority activity, that commissioner or employee shall disclose this fact immediately in writing to the redevelopment authority and the disclosure must be entered in the commissioners' minutes.

3. Recusal. A commissioner of the redevelopment authority or employee of the redevelopment authority with an interest under subsection 2 may not participate in an action by the redevelopment authority affecting that property.

4. Violation. A violation of this section is a Class E crime.

§5162. Development Ready Community Planning Committee

The Development Ready Community Planning Committee is established pursuant to Title 5, section 12004-I, subsection 6-J to develop guidelines and best practices for community development.

1. ~~Committee established in~~ Membership. ~~The redevelopment authority shall establish the Development Ready Community Planning Committee for the purposes of establishing statewide developing guidelines and best practices in for community development.~~ The members of the committee are as follows:

A. The executive director of the redevelopment authority;

B. The Commissioner of Economic and Community Development or the commissioner's designee;

C. ~~A representative of the planning division within the Department of Transportation.~~ The Commissioner of Transportation or the commissioner's designee;

D. ~~A representative of the Department~~ The Commissioner of Environmental Protection or the commissioner's designee;

Commented [OR3]: Option #2:

5162. Development guidelines and best practices

The redevelopment authority shall develop, and as determined necessary, revise, guidelines and best practices for community development. In developing these guidelines and best practices, the redevelopment authority shall consult with, but is not limited to, the following:

(use the list of entities provided)

The guidelines and best practices developed are intended to support the following goals:

(use goals below)

E. A representative of a municipal planning assistance program within the Department of The Commissioner of Agriculture, Conservation and Forestry or the commissioner’s designee;

F. A representative of the The director of the Maine State Housing Authority or the director’s designee;

G. The director of the Maine Historic Preservation Commission or the director’s designee;

GH. The following members, selected by and serving at the pleasure of the executive director of the redevelopment authority:

(1) A representative of the Maine Municipal Association;

(2) A representative from each regional planning organization in the State; and

(3) A representative of an organization that advocates for the rights of low-income renters and homeowners;

(4) A representative of a local or statewide organization promoting civil rights that has racial justice or racial equity as its primary mission; and

(5) Two residents of the State with experience in real estate development.

2. ~~Community development guidelines~~ Duties. The committee created under subsection 1 shall ~~establish~~ develop community development guidelines and best practices intended to ~~achieve~~ support the following goals:

A. Assisting communities in preparing for new investment and development that maximize financial return for state and local economies, improve quality of life for local residents, address housing needs for households of all income levels, and advance environmental protection and transportation goals and specific locally identified priority needs;

B. Assisting communities in designating priority investment areas in consultation with regional planning organizations, including but not limited to village centers, downtowns and adjacent neighborhoods, rural crossroads, high-impact corridors, working waterfronts and rural farmsteads; and

C. Ensuring that redevelopment efforts are achievable by communities and based on the merit of the redevelopment project and community commitment toward the redevelopment project.

3. Terms of office.

4. Chair and officers. (the redevelopment authority shall provide staff)

5. Quorum.

6. Affirmative vote.

Commented [OR4]: Would need direction to fill these in.

DRAFT – LANGUAGE

7. Meetings. The Development Ready Community Planning Committee shall meet at least biannually following the development of the community development guidelines and best practices for the purpose of reviewing and, if determined necessary, updating the guidelines and best practices.

Insert NEW SECTION –

§51XX. Biennial Report.

1. Biennial report. The redevelopment authority shall submit biannually to the joint standing committee having jurisdiction over economic development matters a complete report on the activities of the redevelopment authority. The report must include the following.

- A. A description of the redevelopment authority's operations;
- B. A listing of all property acquired pursuant to section 5161, subsection 1;
- C. An accounting of all activities related to the Maine Redevelopment Land Bank Fund under section 5155.
- D. A listing of any bonds issued during the fiscal year under section 51XX (bonds);
- E. A statement of the redevelopment authority's proposed and projected activities for the ensuing year; and
- F. Recommendations regarding further actions that may be suitable for achieving the purposes of this chapter.

Sec. 3. 38 MRSA §569-C, sub-§1, as enacted by PL 2011, c. 206, §18, is amended to read:

1. Limited exemption from liability. Liability under section 570 does not apply to the State or any political subdivision, including the Community Redevelopment Land Bank Authority established under Title 30-A, chapter 204, that acquired ownership or control of an oil storage facility through tax delinquency proceedings pursuant to Title 36, or through any similar statutorily created procedure for the collection of governmental taxes, assessments, expenses or charges, or involuntarily through abandonment, or in circumstances in which the State or political subdivision involuntarily acquired ownership or control by virtue of its function as a sovereign. The exemption from liability provided under this subsection does not apply if:

- A. The State or political subdivision causes, contributes to or exacerbates a discharge or threat of discharge from the facility; or
- B. After acquiring ownership of the facility and upon obtaining knowledge of a release or threat of release, the State or political subdivision does not:
 - (1) Notify the department within a reasonable time after obtaining knowledge of a discharge or threat of discharge;
 - (2) Provide reasonable access to the department and its authorized representatives so that necessary response actions may be conducted; and

DRAFT – LANGUAGE

~~(3) Undertake reasonable steps to control access and prevent imminent threats to public health and the environment.~~

~~Sec. 4. 38 MRSA §1367 B, sub §1, as enacted by PL 1991, c. 811, §4 and affected by §7, is amended to read:~~

~~1. **Limited exemption from liability.** Liability under section 1367 does not apply to the State or any political subdivision, including the Community Redevelopment Land Bank Authority established under Title 30-A, chapter 204, that acquired ownership or control of an uncontrolled hazardous substance site through tax delinquency proceedings pursuant to Title 36, or through any similar statutorily created procedure for the collection of governmental taxes, assessments, expenses or charges, or involuntarily through abandonment, or in circumstances in which the State or political subdivision involuntarily acquired ownership or control by virtue of its function as a sovereign. The exemption from liability provided under this subsection does not apply to the State or any political subdivision that has caused, contributed to or exacerbated a release or threatened release of a hazardous substance on or from the uncontrolled site.~~

Sec. 5. 38 MRSA §2203-A, sub-§2-A is enacted to read:

2-A. **Community Redevelopment Land Bank Authority fee.** Beginning January 1, 2023, in addition to the per ton fee required in subsection 1, commercial, municipal, state-owned and regional association landfills shall collect a \$3 per ton fee for the disposal of construction and demolition debris and residue from the processing of construction and demolition debris for transfer to the Community Redevelopment Land Bank Fund established by Title 30-A, section 5155.

Insert a new section as follows:

Sec. 6. Unallocated language *(Note: Not formal language)*

This section would direct the Maine Redevelopment Land Bank established under Title 5, section 12004-G, subsection 7-G, to work with the Attorney General’s office and the Department of Environmental Protection to examine the issues of liability around properties containing oil storage facilities or that are designated as an uncontrolled hazardous substance site. The Maine Redevelopment Land Bank would report back to the IDEA committee in the second session of the 131st and the report may include recommendations for legislation to address these issues.

Renumber and reletter any nonconsecutive part or section.

SUMMARY