

**To:** Members, Joint Standing Committee on State and Local Government  
**From:** Lynne Caswell, Esq., Legislative Analyst  
**Date:** April 26, 2021  
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|      |   |              |
|------|---|--------------|
| 14   | An Act To Require a Two-thirds Vote To Extend a State of Emergency  | (Pouliot)    |
| 131  | An Act To Amend the Governor's Emergency Powers   | (Dillingham) |
| 608  | An Act Regarding the Governor's Emergency Powers  | (Johansen)   |
| 628  | An Act To Protect Businesses and Civic and Religious Organizations from Actions Taken Pursuant to an Emergency Proclamation                           | (Carmichael) |
| 729  | An Act To Provide Transparency Regarding State Contracts during a State Emergency   | (Keim)       |
| 955  | An Act To Narrowly Tailor Emergency Powers of the Governor and Other Public Officials   | (Keim)       |
| 980  | An Act To Establish Balance in the Governor's Emergency Powers  | (Sampson)    |
| 985  | RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require Legislative Approval of Any State of Emergency Lasting Longer Than 60 Days | (Stewart)    |
| 1019 | AN Act To Promote Transparent Emergency Management  | (Bradstreet) |
| 1039 | An Act To Safeguard the People's Voice in a State of Emergency  | (Keim)       |
| 1137 | An Act To Limit the Governor's Emergency Powers by Requiring a Two-thirds Vote of the Legislature To Continue an Emergency after 9- Days              | (Lemelin)    |
| 1142 | An Act To Prohibit the Unequal Restriction of Essential Businesses during a State of Civil Emergency  | (Fecteau)    |
| 1220 | An Act To Require a Two-thirds Vote of the Legislature Every 2 Weeks To Maintain a State of Emergency Declared by the Governor                        | (Andrews)    |
| 1237 | An Act To Allow the Governor To Declare a Limited State of Emergency for Federal Aid Purposes   | (Keim)       |

### SUMMARY

These 12 bills and 1 resolution (985) amend the governor's emergency powers under Title 37-B, chapter 13, subchapter 2.

### INFORMATION / MATTERS FOR CONSIDERATION

#### A. CURRENT LAW (SEE ATTACHMENT A)

- For a summary of the statutes in other states, please see Attachment B

#### B. GOVERNOR'S EMERGENCY POWERS TRIGGERED (TITLE 37-B)

- "In the event of a disaster beyond local control." (§741)
- Governor must declare

- “disaster” means “the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, extreme public health emergency pursuant to Title 22, section 802, subsection 2-A, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action. “ (§703, sub-§2)
- “extreme public health emergency” is not clearly defined. Reference to 22 MRSA §802 finds the following description of a “health emergency” to be “an actual or threatened epidemic or public health threat”

In the event of such a health emergency, DHHS may adopt rules re:

- Procedures for the isolation and placement of infected persons for purposes of care and treatment or infection control;
- Procedures for the disinfection, seizure or destruction of contaminated property; and
- The establishment of temporary facilities for the care and treatment of infected or exposed persons,

#### C. HISTORY OF STATUTE

Title 37-B, sections §§ 741 – 745, which sets out the Governor’s emergency powers , was originally enacted in 1983. The original version of this law, P.L. 1983 ch. 460, was enacted in the 1<sup>st</sup> Regular Session of the 111<sup>th</sup> Legislature and then repealed and replaced in the 2<sup>nd</sup> Regular Session of that same legislature (P.L. 1983 ch. 594). The provisions limiting an emergency proclamation to 30 days and granting the legislature the ability to terminate an emergency proclamation by joint resolution was two of the additions added by the 2<sup>nd</sup> Regular Session.

These sections or law were most recently amended by the 129<sup>th</sup> Legislature (P.L. 2019 ch. 617) to address the COVID-19 pandemic (See Attachment C).

#### D. CONVENING LEGISLATURE

Me. Const. art. IV, pt. 3, § 1.

“The Legislature may convene at such other times on the call of the President of the Senate and Speaker of the House, with the consent of a majority of the Members of the Legislature of each political party, all Members of the Legislature having been first polled.”

Me. Cont. Art. V, pt. 1, § 13.

The Governor may, on extraordinary occasions, convene the Legislature; and in case of disagreement between the 2 Houses with respect to the time of adjournment, adjourn them to such time, as the Governor shall think proper, not beyond the day of the next regular session; and if, since the last adjournment, the place where the Legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

*E. 2/3 VOTE OF LEGISLATURE/ LEGISLATIVE COUNCIL*

Unless otherwise provided for in the state’s constitution (e.g. emergency bills; state mandates), a 2/3 vote is not required for the legislature to act and a future legislature is not bound by a statutory requirement of a 2/3 vote.

*F. SCOPE OF EMERGENCY POWERS (CASE LAW)*

State actions that infringe on constitutional rights must have a compelling justification; must be applied neutrally, must be narrowly tailored and must use the least restrictive means.

*G. AMENDING THE CONSTITUTION*

There is a longstanding principle, not reflected in statute or the joint rules, that a committee may not “promote a vehicle” before them. What that means is that a committee may not turn a resolve into a bill, or turn a bill into a resolution. If the committee is interested in amending the constitution, LD 985 is a resolution.

*H. AMENDING MULTIPLE BILLS*

When amending multiple bills on the same topic it is important to pay careful attention to avoiding conflicts or duplicative provisions.

**FISCAL IMPACT - Preliminary (OFPR)**

None provided as of this date.

| LD<br>(sponsor)   | MAJOR PROVISIONS OF BILL  | POTENTIAL ISSUES   |
|-------------------|---|--|
| 14<br>Pouliot     | <ul style="list-style-type: none"> <li>➤ Initial = 30 days</li> <li>➤ 2/3 vote of the Legislature</li> </ul>  | <ul style="list-style-type: none"> <li>➤ 2/3</li> <li>➤ How vote obtained if legislature not in session?</li> </ul>  |
| 131<br>Dillingham | <ul style="list-style-type: none"> <li>➤ Initial = 30 days</li> <li>➤ 2/3 of each</li> <li>➤ Not for another 30 days</li> <li>➤ Evacuation of population and occupancy limits by majority of LC membership</li> <li>➤ Temporary or permanent closure of business / civic / religious – 2/3 of LC membership</li> <li>➤ Use of law enforcement powers by order + 2/3 LC membership</li> <li>➤ No eminent domain powers</li> <li>➤ No alcohol restrictions</li> </ul> | <ul style="list-style-type: none"> <li>➤ 2/3 vote</li> <li>➤ “temporary” - no matter how short</li> <li>➤ Separate out new language (technical)</li> </ul> |

| LD<br>(sponsor)                            | MAJOR PROVISIONS OF BILL  | POTENTIAL ISSUES  |
|--|---|---|
| <b>608</b><br><i>Emergency</i><br>Johansen | <ul style="list-style-type: none"> <li>➤ Initial – 30</li> <li>➤ 2/3 vote in both</li> <li>➤ Governor must convene</li> <li>➤ may not declare a similar, subsequent emergency</li> <li>➤ Declared by county commissioners</li> </ul>  | <ul style="list-style-type: none"> <li>➤ Convene legislature</li> <li>➤ 2/3 vote</li> <li>➤ “declared” by county commissioners - ?</li> </ul>   |
| <b>628</b><br>Carmichael                   | <ul style="list-style-type: none"> <li>➤ 2/3 vote of membership of Legislative Council if                             <ul style="list-style-type: none"> <li>▪ temporary or permanent closure of a business or a civic or religious organization</li> </ul> </li> </ul>   | <ul style="list-style-type: none"> <li>➤ 2/3 vote of members, not members present</li> <li>➤ Temporary – no matter how short</li> </ul>   |
| <b>729</b><br>Keim                         | <ul style="list-style-type: none"> <li>➤ Contracts that don’t meet requirements of Title 5, Part 4 must be published and made publicly available w/i 72 hours of execution</li> </ul>   | <ul style="list-style-type: none"> <li>➤ All state contracts are currently available on DAFS</li> <li>➤ Was intent of sponsor to include all of Title 5, Part 4 (See Attachment D) or just competitive bidding requirement</li> </ul> |
| <b>955</b><br>Keim                         | Sponsor’s Amendment <ul style="list-style-type: none"> <li>➤ narrowly tailored to serve a compelling health or safety purpose;</li> <li>➤ limited in duration, applicability and scope to reduce infringement</li> <li>➤ state courts have jurisdiction</li> <li>➤ state court shall expedite consideration to the extent practicable</li> <li>➤ inequality in applicability may constitute grounds to invalidate / enjoin</li> </ul> | codifies case law   |
| <b>980</b><br>Sampson                      | <ul style="list-style-type: none"> <li>➤ Initial = 7 days w/ 3-day extension if significant changes in circumstances</li> <li>➤ Emergency powers revert to Legislature after 7 days</li> <li>➤ May extend for 30 days by 2/3 vote in both (ongoing)</li> <li>➤ Either body may terminate by majority vote</li> <li>➤ Debate and voting by remote or electronic means</li> </ul>   | <ul style="list-style-type: none"> <li>➤ 2/3 vote</li> <li>➤ Impeachable offense w/penalty</li> <li>➤ Codifies case law</li> </ul>  |

| LD<br>(sponsor)                                     | MAJOR PROVISIONS OF BILL  | POTENTIAL ISSUES  |
|---|---|---|
|   | <ul style="list-style-type: none"> <li>➤ Impeachable offense (removal and lifetime ban)</li> <li>➤ narrowly tailored to serve a compelling health or safety purpose</li> <li>➤ limited in duration, applicability and scope</li> <li>➤ inequality in application may constitute grounds to invalidate / enjoin</li> <li>➤ state court has jurisdiction</li> <li>➤ court to expedite consideration to the extent practicable</li> </ul>  |   |
| <p><b>985</b><br/><i>Resolution</i><br/>Stewart</p> | <ul style="list-style-type: none"> <li>➤ Initial = 60 days</li> <li>➤ Majority vote to extend additional 60 days, ongoing</li> </ul>  | <p>Constitutional amendment required</p>  |
| <p><b>1019</b><br/>(Bradstreet)</p>                 | <ul style="list-style-type: none"> <li>➤ Limits emergency orders to the soonest of:                             <ul style="list-style-type: none"> <li>▪ 30 days;</li> <li>▪ Terminated by Governor or Legislature</li> <li>▪ new emergency proclamation by Governor</li> </ul> </li> <li>➤ repeals current provisions that electricity disconnect may not occur until 60 days after emergency terminates</li> <li>➤ repeals current provision extending some powers for 30 days following emergency termination</li> </ul> |   |
| <p><b>1039</b><br/>Keim</p>                         | <ul style="list-style-type: none"> <li>➤ Initial = 30 days</li> <li>➤ Majority vote in both the House and Senate to renew</li> <li>➤ Indefinite renewals</li> <li>➤ Gov must convene legislature</li> <li>➤ 2/3 vote in each House to terminate any</li> <li>➤ If terminated, Governor may not declare another for same emergency or set of underlying circumstances</li> <li>➤ Allows remote voting during emergency</li> <li>➤ Does not apply to Commander in Chief of the military forces of the State powers</li> </ul> | <ul style="list-style-type: none"> <li>➤ convene legislature</li> <li>➤ 2/3 vote</li> </ul> |

| LD<br>(sponsor)                                     | MAJOR PROVISIONS OF BILL  | POTENTIAL ISSUES   |
|---|---|--|
| <p><b>1137</b><br/><i>Emergency</i><br/>Lemelin</p> | <ul style="list-style-type: none"> <li>➤ Initial = 30 days;</li> <li>➤ Gov may renew in 30-day increments up to 90 days</li> <li>➤ Gov must convene legislature (by 80<sup>th</sup> day)</li> <li>➤ 2/3 vote in each</li> <li>➤ Governor may not declare a similar, subsequent state of emergency</li> </ul>  | <ul style="list-style-type: none"> <li>➤ convene legislature</li> <li>➤ 2/3 vote</li> <li>➤ Reference to paragraph C on p. 1, line 22 (technical issue)</li> </ul> |
| <p><b>1142</b><br/>J. Fecteau</p>                   | <ul style="list-style-type: none"> <li>➤ Defines “essential business” as “any private business that employs a person in this State”</li> <li>➤ If Governor restricts operation of “essential” business, must restrict all private businesses in the same manner</li> </ul>  | <p>may be contrary to case law</p>   |
| <p><b>1220</b><br/><i>Emergency</i><br/>Andrews</p> | <ul style="list-style-type: none"> <li>➤ Initial = 30 days</li> <li>➤ 2/3 vote of the Legislature</li> <li>➤ Every 14 days</li> <li>➤ If Legislature does not vote to extend the state of emergency</li> <li>➤ poll members if not in session</li> </ul>  | <ul style="list-style-type: none"> <li>➤ 2/3 vote</li> <li>➤ vote by polling members</li> </ul>  |
| <p><b>1237</b><br/>Keim</p>                         | <ul style="list-style-type: none"> <li>➤ Allows the Governor to declare a state of emergency for the sole purpose of requesting the President of the U.S. to declare a major disaster for part or all of Maine in order to make available federal aid</li> <li>➤ Such a declaration prohibits the Governor from “using the same powers granted to Governor under declared state of emergency because of disaster or civil emergency (§742, sub-§1)</li> </ul> | <p>last sentence</p>   |

## ATTACHMENT A

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### TITLE 37-B, CHAPTER 13

#### STATE EMERGENCY MANAGEMENT PROVISIONS

##### §741. Governor's powers

**1. Control during emergencies.** In the event of disaster beyond local control, the Governor may assume direct operational control over all or any part of the emergency management and public functions within the State.

**2. Cooperation.** In performing the duties required by this chapter, the Governor shall, directly or through the commissioner, cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries and their political subdivisions and with private agencies in all matters pertaining to the emergency management capability of the State and of the Nation.

**3. Authority.** In performing the duties required by this chapter, the Governor may:

A. Make, amend and rescind the necessary orders and rules to carry out this chapter within the limits of the authority conferred upon the Governor and not inconsistent with the rules, regulations and directives of the President of the United States or of any federal department or agency having specifically authorized emergency management or homeland security functions;

B. Prepare a comprehensive plan and program for the emergency management functions of this State. That plan and program must be integrated into and coordinated with the emergency management plans of federal agencies and with the plans of other states and foreign countries, and their political subdivisions, to the fullest possible extent;

C. Coordinate the preparation of plans and programs for emergency management functions by the political subdivisions of the State. These plans must be integrated into and coordinated with the emergency management plan and program of the State to the fullest possible extent;

D. In accordance with the plan and program for the emergency management functions of the State, and consistent with the emergency management and homeland security plans, programs and directives of the Federal Government, procure supplies and equipment, institute training programs and public information programs and take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster or catastrophe, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need;

E. Conduct studies and surveys and take inventories of the industries, resources and facilities of the State necessary to ascertain the State's emergency management capabilities, and plan for their most efficient emergency use, including emergency economic controls to ensure adequate production and equitable distribution of essential commodities;

F. Whenever a shortage of critical material supplies appears imminent in the State, establish emergency reserves of those products necessary to ensure the health, welfare and safety of the people of the State. To establish those reserves, the Governor may purchase quantities of those materials for resale on a cost plus expenses basis for priority end users within the State;

G. On behalf of the State, enter into mutual aid arrangements with other states and foreign countries, and their political subdivisions, and coordinate mutual aid plans between political subdivisions of the State. If an arrangement is entered into with a jurisdiction that has enacted the Emergency Management Assistance Compact, chapter 16, or the International Emergency Management Assistance Compact, chapter 16-A, any resulting agreement or agreements may be considered supplemental agreements pursuant to those compacts. If the other jurisdiction or

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jurisdictions with which the Governor proposes to cooperate have not enacted one of those compacts, the Governor may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for its making does not otherwise exist, becomes effective only after approval by the Legislature;

G-1. Establish and ensure maintenance of a primary facility designated as the State Emergency Operations Center from which the emergency coordination of response to and recovery from a disaster may be effectively carried out and ensure the identification of an alternate site that may be used for this purpose if necessary; and

H. Delegate any authority vested in the Governor under this chapter and provide for the subdelegation of that authority

### §742. Emergency proclamation

**1. Emergency proclamation.** Emergency proclamations must be issued as follows.

A. Whenever a disaster or civil emergency exists or appears imminent, the Governor shall, by oral proclamation, declare a state of emergency in the State or any section of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of the Governor were vacant may, by oral proclamation, declare the fact that a civil emergency exists or appears sufficiently imminent to activate emergency plans in any or all areas of the State. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation.

B. Subject at all times to the further direction and order of the Governor, an executive proclamation of emergency activates the emergency plans applicable to the affected areas and is the authority for the deployment and use of any forces or resources to which the plan or plans apply.

C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:

(1) Suspend the enforcement of any statute prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of the statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the State Government and of each political subdivision of the State as reasonably necessary to cope with the disaster emergency;

(3) Transfer the direction, personnel or functions of state departments and agencies, or units thereof, for the purposes of performing or facilitating emergency services;

(4) Authorize the obtaining and acquisition of property, supplies and materials pursuant to section 821;

(5) Enlist the aid of any person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;

(6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(7) Prescribe routes, modes of transportation and destinations in connection with evacuations;

(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;



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- (9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;
- (10) Make provision for the availability and use of temporary emergency housing;
- (11) Order the termination, temporary or permanent, of any process, operation, machine or device which may be causing or is understood to be the cause of the state of emergency for which this proclamation was made;
- (12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area; and
- (13) During a state of emergency declared by the Governor in accordance with this section due to the outbreak of COVID-19:
  - (a) Reasonably adjust time frames and deadlines imposed by law for state, county and municipal governments and other entities when such an adjustment is reasonably necessary to mitigate an effect of the emergency;
  - (b) In consultation with the Public Utilities Commission, suspend the termination of residential electricity and water services during the period of emergency and up to 60 days after the state of emergency is terminated; and
  - (c) Modify or suspend the requirements for professional or occupational licensing or registration by any agency, board or commission if strict compliance with such requirements would in any way prevent, hinder or delay necessary action in dealing with the emergency.

The powers granted in divisions (a) and (c) terminate 30 days following the termination of the state of emergency.

**2. Energy emergency proclamation.** Energy emergency proclamations must be issued as follows.

A. When an actual or impending acute shortage in energy resources threatens the health, safety or welfare of the citizens of the State, the Governor shall, by oral proclamation, declare that fact and that an energy emergency exists in the State or in any section of the State. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation.

B. Upon the issuance of an energy emergency proclamation and after consulting with the Governor's Energy Office, the Governor may exercise all the powers granted in this chapter, except as specifically limited by paragraph C. The powers of the Governor include, without limitation, the authority to:

- (1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;
- (2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;
- (3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;
- (4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Public Utilities Commission, regulate the generation, distribution and consumption of electricity;
- (5) Establish temporary state and local boards and agencies;

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- (6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;
  - (7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations;
  - (8) Regulate the storage, distribution and consumption of home heating oil; and
  - (9) If the energy emergency was caused by a lack of electric grid reliability in this State resulting from insufficient capacity resources, take appropriate action, in consultation with the Public Utilities Commission, to procure sufficient capacity resources including generation capacity and interruptible, demand response or energy efficiency capacity resources.
- C. In dealing with a declared energy emergency, the following powers granted by this chapter may not be invoked:
- (1) The eminent domain powers granted in section 821; and
  - (2) The enforcement powers granted in sections 786 and 829, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation and approved by a majority of the membership of the Legislative Council. That order must specify those emergency orders or rules that are enforceable pursuant to this paragraph and must further specify the enforcement activities emergency management organizations are to pursue. No enforcement action may be taken pursuant to this paragraph without publication of the order authorizing the action in a manner reasonably calculated to give affected persons adequate notice of the order or rule to be enforced, which may include publication on the Internet, and the sanctions to be applied.
- D. During a declared energy emergency, the following provisions relating to environmental rules apply.
- (1) Except as provided in subparagraph (2), this subsection may not be construed to authorize the Governor to suspend or to modify orders, rules, standards or classifications issued or enforced by the Department of Environmental Protection or the Maine Land Use Planning Commission.
  - (2) When an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages. At an extraordinary session, the board is empowered, notwithstanding any other provision of law, to approve suspensions or waivers that it determines are necessary to relieve or avoid an energy shortage and will not result in environmental degradation of a permanent or enduring nature. In no event may any suspension or modification be granted that will result in a circumvention of Title 38, sections 481 to 488, 541 and 557. The waiver or suspension may not remain in effect longer than 60 days or after the date on which the board renders a further order issued pursuant to the regular procedures specified in Title 38, whichever first occurs.
- E. The Superior Court of the county in which a person fails to obey an order or rule promulgated in accordance with this subsection has jurisdiction to issue a restraining order or injunction to enforce the order or rule. That proceeding must be held in accordance with the Maine Rules of Civil Procedure, Rule 65.
- F. In the event that an order or rule issued by the Governor, pursuant to the powers granted in paragraph B, are to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of the order or rule, convene the Legislature.

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**3. Oil spill emergency proclamation.** In the event of a disaster due to an oil spill in coastal waters, the Commissioner of Environmental Protection shall directly represent the Governor in all direct abatement, clean-up and resource protection activities in coordination with federal, industry and other states' response teams. The agency shall assume the other functions prescribed in subsection 1, paragraph C, but does not have supervisory authority over the Department of Environmental Protection in the conduct of response activities on the water.

### §743. Termination of emergency

**1. Proclamation by Governor.** Whenever the Governor is satisfied that a disaster or civil emergency no longer exists, the Governor shall terminate the emergency proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof. That proclamation must be published in newspapers of the State and posted in places that the Governor considers appropriate.

**2. Limitation.** No state of emergency may continue for longer than 30 days unless renewed by the Governor. The Legislature, by joint resolution, may terminate a state of emergency at anytime. Thereupon, the Governor shall issue an executive proclamation ending the state of emergency.

### §744. Disaster relief

**1. Financial assistance to individuals.** Whenever the President has declared a major disaster to exist in this State, the Governor may:

A. Accept a grant of financial assistance from the Federal Government, subject to such terms and conditions as may be imposed upon the grant and upon the Governor's determination that financial assistance is essential to meet necessary expenses or serious needs of individuals or families caused by the disaster that cannot otherwise adequately be met;

B. Enter into an agreement with the Federal Government, or any officer or agency thereof, pledging the State to participate in up to 25% of the financial assistance authorized in this subsection. If state funds are not otherwise available, the Governor may accept an advance of the state's share from the Federal Government to be repaid when the State is able to do so; and

C. Notwithstanding any other provision of law or regulation, make financial grants to meet necessary expenses or serious needs of individuals or families caused by the disaster that cannot otherwise adequately be met. A grant to an individual or family may not exceed in the aggregate for any single major disaster declared by the President the amount established by the Federal Government for the limit on grants to individuals under any federal disaster assistance program for individuals and families.

**2-A. Assistance to local governmental units.** Assistance to local governmental units shall be governed as follows.

A. Whenever the President of the United States declares that a major disaster exists in the State, the Governor may:

(1) Apply for a public assistance grant from the Federal Government under Public Law 93-288 on behalf of both the State and local governmental units for the purposes of repairing or replacing publicly owned facilities within the disaster area or relocating public facilities outside of the disaster area;

(2) Obligate state financial resources, as a condition for receiving such a federal grant, up to, but not in excess of, 25% of the total public assistance requested; and

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(3) Enter into an agreement with the affected local governmental units to obligate local financial resources up to, but not in excess of, 10% of the total cost of damage to local public facilities, provided that the local share shall not exceed 10% of total local annual operating budget, exclusive of educational budgets.

B. If the President of the United States declares that a major disaster exists in the State, the Governor may:

(1) Apply for a loan from the Federal Government on behalf of a unit of local government if the Governor determines that the unit will suffer a substantial loss of tax and other revenues as a result of a major disaster and has demonstrated a need for financial assistance to perform its governmental functions;

(2) Receive and disburse the proceeds of any approved loan to an applicant local government;

(3) Determine the amount needed by any applicant local government to restore or resume its governmental functions and certify the amount to the Federal Government, except that no application amount may exceed 25% of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs; and

(4) Recommend to the Federal Government, based upon the Governor's review, the cancellation of all or any part of repayment when, after 3 full fiscal years following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional municipal expenses related to the disaster

**3. Temporary housing.** Temporary housing may be provided as follows.

A. Whenever the Governor has proclaimed a disaster emergency under the laws of this State, or the President has declared an emergency or a major disaster to exist in this State, the Governor may:

(1) Enter into purchase, lease or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and make these units available to any political subdivision of the State;

(2) Assist any political subdivision of the State, in which is located temporary housing for disaster victims, acquire sites necessary for the temporary housing and do all things required to prepare the sites to accommodate temporary housing units. This may be accomplished by advancing or lending funds available to the Governor from any appropriation made by the Legislature or from any other source, and "passing through" funds made available by any agency, public or private; or by becoming a partner with the political subdivision for the execution and performance of any temporary housing project for disaster victims. For those purposes, the Governor may pledge the credit of the State on terms that the Governor considers appropriate, having due regard for current debt transactions of the State; and

(3) Suspend or modify a state health, safety, zoning, transportation or other requirement of law or rule when the Governor considers suspension or modification necessary to provide temporary housing for disaster victims. That suspension or modification must be in accordance with rules adopted by the Governor and may not exceed 60 days' duration.

B. Any political subdivision of this State is expressly authorized to acquire, temporarily or permanently, by purchase, lease or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip those sites to accommodate the housing units.

**4. Debris removal in major disasters.** In major disasters, debris may be removed as follows.

## ATTACHMENT A

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A. Whenever the Governor has declared a disaster emergency to exist under the laws of this State, or the President has declared a major disaster or emergency to exist in this State, the Governor may:

(1) Notwithstanding any other provision of law, through the use of state departments or agencies or the use of any of the state's instrumentalities, clear or remove from publicly-owned or privately-owned land or water, debris and wreckage that may threaten public health or safety, or public or private property;

(2) Accept funds from the Federal Government and utilize those funds to make grants to any local government for the purpose of removing debris or wreckage from publicly-owned or privately-owned land or water; and

(3) Notwithstanding any other provision of law, agree to indemnify the Federal Government against any claim arising from debris and wreckage removal from private property.

B. The following conditions apply to the execution of removal or clearance.

(1) Authority under this subsection shall not be exercised unless the affected local government, corporation, organization or individual first presents an unconditional authorization for removal of the debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, also first agrees to indemnify the State Government against any claim arising from that removal.

(2) Whenever the Governor provides for clearance of debris or wreckage pursuant to paragraph A, employees of the designated state agencies or individuals appointed by the State are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation.

(3) Except in cases of willful misconduct, gross negligence or bad faith, any state employee or agent complying with orders of the Governor and performing duties pursuant thereto under this section shall not be liable for death of or injury to persons or damage to property occurring during performance of those duties.

**5. Terms.** As used in this section, "major disaster," "emergency" and "temporary housing" have the same meaning as in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended.

**6. Rules.** The Governor shall make rules necessary for carrying out this section, including, but not limited to, standards of eligibility for persons applying for benefits; procedures for applying for and administration of relief; methods of investigation, filing and approving applications and formation of local or statewide boards to pass upon applications and procedures for appeals.

**7. Authority not limited.** Nothing contained in this section may be construed to limit the Governor's authority to apply for, administer and expend any grants, gifts or payments in aid of disaster prevention, preparedness, response or recovery.

**8. Penalty.** Any person who knowingly makes a misstatement of fact in connection with an application for financial assistance under this section is guilty of a Class D crime.

### §745. Disaster Recovery Fund

**1. Fund established.** There is established the Disaster Recovery Fund, referred to in this section as "the fund," to be administered by the agency.

**2. Sources of fund.** The following must be paid into the fund:

A. All money appropriated for inclusion in the fund;

## ATTACHMENT A

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B. All interest from investment of the fund;

C. Any other money deposited in the fund from the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account; and

D. Reimbursement received from the Federal Government or other legal entity for disaster recovery assistance expenditures made from the fund.

**3. Use of fund.** The fund must be the first resource used when section 742 or 744 is invoked. The fund may be used for any of the following at the discretion of the Governor or Governor's designee:

A. To provide disaster recovery assistance to individuals and families when a federal disaster declaration is not received;

B. To provide disaster recovery assistance to local governmental units of the State for infrastructure repair and response when a federal disaster declaration is not received;

C. Emergency response costs for state agencies;

D. To provide low-interest loans to businesses for disaster recovery assistance when a federal disaster declaration is not received;

E. Disaster-related unmet needs of individuals and families following a federally declared disaster;

F. Matching funds for assistance to individuals in a federally declared disaster; and

G. Matching funds for assistance to state and local governmental units in a federally declared disaster.

**4. Fund balance.** The fund's balance may not exceed \$3,000,000, except by order of the Governor. In the absence of such an order, any amount, including interest, that accrues in excess of \$3,000,000 must be transferred by the State Controller to the Maine Budget Stabilization Fund, established in Title 5, section 1532. Beginning July 1, 2010, the fund's maximum allowable balance must be adjusted annually on July 1st by any percentage change in the Consumer Price Index from January 1st to December 31st of the previous year, but only to a maximum increase of 2%.

**5. Annual report.** The director shall submit a written report by January 15, 2007 and annually thereafter to the Governor and the Legislature on the fund's balance and expenditures.

**6. Rules.** The agency shall adopt rules governing the process for the expenditure of funds from the fund. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

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National Conference of State Legislatures  
LEGISLATURE AND EMERGENCY DECLARATIONS: STATUTES

**Alabama** The legislature may declare a state of emergency by joint resolution. Additionally, the lieutenant governor or the speaker of the House may request in writing that the governor call the Legislature into special session. Ala. Code § 31-9-8.

**Alaska** A state of emergency declared as a result of an actual enemy or terrorist attack in or against the state, or credible threat thereof, may not remain in effect longer than 30 days unless extended by the legislature by law and may be terminated by law or withdrawal of the declaration. Alaska Stat. Ann. § 26.20.040.

A proclamation of disaster emergency may not remain in effect longer than 30 days unless extended by the legislature by a concurrent resolution....The governor may expend more than \$500,000 of state funds to cope with an incident under (h) of this section or more than \$1,000,000 of state funds to cope with a disaster under (i) of this section under the following circumstances: (1) if the legislature is in session, the legislature approves a financing plan to cope with the incident or disaster that identifies the amount in excess of the expenditure limits that is to be expended from state funds; or (2) if the legislature is not in session, either (A) the governor convenes a special session of the legislature within five days after declaring the condition of disaster emergency or within five days after providing a financing plan to cope with an incident to the legislature and the legislature convenes in special session and approves a financing plan to cope with the incident or disaster that identifies the amount in excess of the expenditure limits that is to be expended from state funds; or (B) the presiding officers of both the house of representatives and the senate agree that a special session should not be convened and so advise the governor in writing. Alaska Stat. Ann. § 26.23.020.

When the governor declares a condition of disaster emergency...the governor shall prepare and deliver to the presiding officers of the legislature and to the persons who chair the finance committees in each house of the legislature a financing plan...Notwithstanding any other provision of this chapter, if the declaration of a disaster emergency occurs while the legislature is in session or if a special session is held, actions taken by the governor under this chapter after the close of the session that are not ratified by law adopted during that session are void. (c) The legislature may terminate a disaster emergency at any time by law. Alaska Stat. Ann. § 26.23.025.

**Arizona** The powers granted the governor with respect to a state of war emergency shall terminate if the legislature is not in session and the governor, within 24 hours after the beginning of such state of war emergency, has not issued a call for an immediate special session of the legislature for the purpose of legislating on subjects relating to such state of war emergency. The powers granted the governor by this chapter with respect to a non-state of war emergency shall terminate by proclamation of the governor or by concurrent resolution of the legislature declaring it at an end. Ariz. Rev. Stat. Ann. § 26-303.

**Arkansas** The General Assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. Ark. Code Ann. § 12-75-107.

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| <b>California</b>           | <p>State of war emergency powers terminate when the governor has not, within 30 days after the beginning of such state of war emergency, issued a call for a special session of the Legislature for the purpose of legislating on subjects relating to such state of war emergency, except when the Legislature is already convened with power to legislate on such subjects. CA GOVT § 8624.</p> <p>Non-war emergency may be terminated by concurrent resolution of the legislature declaring it at an end. CA GOVT § 8629.</p>   |
| <b>Colorado</b>             | <p>The general assembly, by joint resolution, may terminate a state of disaster emergency at any time. CO ST § 24-33.5-704.</p>  |
| <b>Connecticut</b>          | <p>Any such proclamation, or order issued pursuant thereto, issued by the governor because of a disaster resulting from man-made cause may be disapproved by majority vote of a joint legislative committee consisting of the president pro tempore of the Senate, the speaker of the House of Representatives and the majority and minority leaders of both houses of the General Assembly, provided at least one of the minority leaders votes for such disapproval. Such disapproval shall not be effective unless filed with the Secretary of the State not later than 72 hours after the filing of the governor's proclamation with the Secretary of the State. As soon as possible after such proclamation, if the General Assembly is not then in session, the governor shall meet with the president pro tempore of the Senate, the speaker of the House of Representatives, and the majority and minority leaders of both houses of the General Assembly and shall confer with them on the advisability of calling a special session of the General Assembly. Conn. Gen. Stat. Ann. § 28-9.</p> |
| <b>Delaware</b>             | <p>No relevant provisions found. Statute addressing emergency executive authority is located at Del. Code Ann. tit. 20, § 3116.</p>  |
| <b>District of Columbia</b> | <p>Emergency executive orders issued by the Mayor shall be effective for no more than 15 calendar days from the day it is signed by the Mayor. Such orders may be extended for up to an additional 15-day period, only upon request by the Mayor of, and the adoption of, an emergency act by the Council of the District of Columbia. Section c-1 of this statute grants a unique 90-day extension specific to the COVID-19 public health emergency. DC ST § 7-2306.</p>  |
| <b>Florida</b>              | <p>The Legislature, by concurrent resolution, may terminate a state of emergency at any time. Fla. Stat. Ann. § 252.36.</p>  |
| <b>Georgia</b>              | <p>As a condition precedent to declaring that a state of emergency or disaster exists as a result of a public health emergency, the governor shall issue a call for a special session of the General Assembly... which session shall convene at 8:00 A.M. on the second day following the date of such declaration for the purpose of concurring with or terminating the public health emergency. Ga. Code Ann. § 38-3-51.</p>   |
| <b>Guam</b>                 | <p>By a majority vote, the legislature may terminate a declaration of a state of public health emergency at any time from the date of original declaration upon finding that the occurrence of an illness or health condition that caused the emergency does not or no longer poses a high probability of a large number of deaths in the affected population, a large number of incidents of serious permanent or long-term disability in the affected population or a significant risk of substantial future harm to a large</p>   |



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|                  | number of people in the affected population. Such a termination shall override any renewal by the governor. 10 G.C.A. § 19405.  |
| <b>Hawaii</b>    | The governor or mayor shall be the sole judge of the existence of the danger, threat, or circumstances giving rise to a declaration of a state of emergency in the State or a local state of emergency in the county, as applicable. Haw. Rev. Stat. Ann. § 127A-14.  |
| <b>Idaho</b>     | The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Idaho Code § 46-1008(2).  |
| <b>Illinois</b>  | No relevant provisions found. Statute addressing emergency executive authority is located at 20 ILCS 3305/7.  |
| <b>Indiana</b>   | The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. Ind. Code Ann. § 10-14-3-12.   |
| <b>Iowa</b>      | The general assembly may, by concurrent resolution, rescind a proclamation of a state of public disorder emergency. If the general assembly is not in session, the legislative council may, by a majority vote, rescind this proclamation. Rescission shall be effective upon filing of the concurrent resolution or resolution of the legislative council with the secretary of state. Iowa Code Ann. § 29C.3. A virtually identical provision exists for disaster emergency proclamations, located at Iowa Code Ann. § 29C.6. |
| <b>Kansas</b>    | No state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed 30 days beyond such 15-day period. Kan. Stat. Ann. § 48-924.   |
| <b>Kentucky</b>  | No relevant provisions found. Statute addressing emergency executive authority is located at KY ST § 39A.100.   |
| <b>Louisiana</b> | The legislature, by petition signed by a majority of the surviving members of either house, may terminate a state of disaster or emergency at any time. This petition terminating the state of emergency or disaster may establish a period during which no other declaration of emergency or disaster may be issued. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster or emergency. La. Stat. Ann. § 29:724.  |
| <b>Maine</b>     | The Legislature, by joint resolution, may terminate a state of emergency at any time. Thereupon, the governor shall issue an executive proclamation ending the state of emergency. Me. Rev. Stat. tit. 37-B, § 743.   |
| <b>Maryland</b>  | The General Assembly by joint resolution may terminate a state of emergency at any time. After the General Assembly terminates a state of emergency, the governor shall issue an executive order or proclamation that terminates the state of emergency. MD PUBLIC SAFETY § 14-107.   |

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| <b>Massachusetts</b> | No relevant provisions found. Emergency response statutes may be found in Chapter 639 of the Acts of 1950: Civil Defense Act. (external link <a href="#">here</a> , active as of 5/11/2020)   |
| <b>Michigan</b>      | No relevant provisions found. Statute addressing emergency executive authority is located at Mich. Comp. Laws Ann. § 10.31.   |
| <b>Minnesota</b>     | For wartime emergencies: If the legislature is not in regular session, the governor, concurrently with the proclamation declaring the emergency issues, shall immediately call for a convening of both houses of the legislature. Otherwise, the governor may exercise emergency powers for a period not to exceed 30 days. For peacetime emergencies: the governor must immediately notify the majority and minority leaders of the senate and the speaker and majority and minority leaders of the house of representatives. A peacetime emergency must not be continued for more than five days unless extended by resolution of the Executive Council up to 30 days. An order, or proclamation declaring, continuing, or terminating an emergency must be given prompt and general publicity and filed with the secretary of state. Minn. Stat. Ann. § 12.31. |
| <b>Mississippi</b>   | No relevant provisions found. Statute addressing emergency executive authority is located at Miss. Code Ann. § 33-15-11.  |
| <b>Missouri</b>      | Any emergency shall terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a resolution terminating such emergency. Mo. Rev. Stat. Ann. § 44.100.   |
| <b>Montana</b>       | A proclamation is ineffectual unless the legislature is then in session or the governor simultaneously issues an order convening the legislature in special session within 45 days. Mont. Code Ann. § 10-3-505.   |
| <b>Nebraska</b>      | The Legislature by resolution may terminate a state of emergency proclamation at any time, whereupon the governor shall terminate the proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. Neb. Rev. Stat. Ann. § 81-829.40.   |
| <b>Nevada</b>        | Any such emergency or disaster terminates upon the proclamation of the termination thereof by the governor, or the passage by the Legislature of a resolution terminating the emergency or disaster. Nev. Rev. Stat. Ann. § 414.070.  |
| <b>New Hampshire</b> | The legislature may terminate a state of emergency by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section. N.H. Rev. Stat. Ann. § 4:45.  |
| <b>New Jersey</b>    | No relevant provisions found. Statutes addressing emergency executive authority are located at N.J.S.A. 26:13-3 and N.J.S.A. App. A:9-34.   |
| <b>New Mexico</b>    | No relevant provisions found. Statute addressing emergency executive authority is located at N.M. Stat. Ann. § 12-10A-5.  |

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| <b>New York</b>       | The legislature may terminate by concurrent resolution executive orders issued under this section at any time. N.Y. Exec. Law § 29-a (McKinney).   |
| <b>North Carolina</b> | A state of emergency may be declared by the Governor or by a resolution of the General Assembly, if either of these finds that an emergency exists. <u>N.C. Gen. Stat. § 166A-19.20</u> . A state of emergency declared shall expire when rescinded by the authority that issued it (legislative or gubernatorial). N.C. Gen. Stat. § 166A-19.20.  |
| <b>North Dakota</b>   | The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. N.D. Cent. Code Ann. § 37-17.1-05.   |
| <b>Ohio</b>           | No relevant provisions found. Statute addressing emergency executive authority is located at OH ST § 5502.22.  |
| <b>Oklahoma</b>       | <p>If the Governor declares a catastrophic health emergency, the State Legislature shall automatically be called into Special Session at 8:00 a.m. on the morning of the second day following the date of such declaration for the purpose of concurring with or terminating the catastrophic health emergency. The State Legislature by concurrent resolution may terminate a state of catastrophic health emergency at any time. Thereupon, the Governor shall by appropriate action end the state of catastrophic health emergency. Such termination by the State Legislature shall override any renewal by the Governor. Okla. Stat. tit. 63, § 6405.</p> <p>A natural or man-made emergency may be proclaimed by the governor or by concurrent resolution of the Legislature. Any such emergency, whether proclaimed by the governor or by the Legislature, shall terminate upon the proclamation of the termination thereof by the governor, or by passage by the Legislature of a concurrent resolution terminating such emergency. Okla. Stat. Ann. tit. 63, § 683.9</p> |
| <b>Oregon</b>         | Emergency powers granted to the governor shall be terminated by proclamation of the governor or by joint resolution of the Legislative Assembly. Or. Rev. Stat. Ann. § 401.192.  |
| <b>Pennsylvania</b>   | The state of disaster emergency shall continue until the governor finds that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order or proclamation, but no state of disaster emergency may continue for longer than 90 days unless renewed by the governor. The General Assembly by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened and the conditions which have brought the disaster about or which make possible termination of the state of disaster emergency. <u>35 Pa. C.S. § 7301(c)</u>  |
| <b>Puerto Rico</b>    | <p><i>Chapter 335. Puerto Rico Department of Public Safety Act (Subchs. I — IX), Subchapter VI. Emergency Management and Disaster Administration Bureau (§§ 3641 — 3655) 25</i></p> <p>L.P.R.A. § 3650: In emergency or disaster situations, the Governor of Puerto Rico may declare through a proclamation that a state of emergency or disaster exists, as the case may be, in all of the territory of Puerto Rico or part thereof. The Governor, for the duration of such state of emergency or disaster shall have, in addition to any others conferred by other laws, the following powers: ... (b) May prescribe, amend, and</p>   |

**ATTACHMENT B**

revoke any regulations as well as issue, amend, and rescind such orders as deemed convenient which shall be in effect for the duration of the state of emergency or disaster. Regulations prescribed or orders issued during a state of emergency or disaster shall have force of law for the duration of the state of emergency or disaster. (c) May render effective any state regulations, orders, plans, or measures for emergency or disaster situations or modify them at his discretion. (Act 20-2017)

*Chapter 68. Special Provisions for Emergency Proceedings (§§ 1931-1945) 3 L.P.R.A. § 1942* The Executive Orders issued by the Governor under the provisions of this chapter, to declare emergencies, shall be effective for no longer than six (6) months. The Governor may, through an Executive Order, authorize the continuation of the state of emergency for the time deemed appropriate, without exceeding the term of his/her office. Any transactions, processes, projects, works or programs started during the effective term of an Executive Order under this chapter, shall expire as provided in the process set forth in the same, regardless of the fact that the term provided in the Executive Order has expired, insofar that the Governor does not provide otherwise. During said period of time, the Legislature shall pass judgment on the content of the orders and may delimit their scope through the mechanism of the Concurrent Resolution.(Act 76-2000)

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| <b>Rhode Island</b>   | The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. 30 R.I. Gen. Laws Ann. § 30-15-9.   |
| <b>South Carolina</b> | A declared state of emergency shall not continue for a period of more than fifteen days without the consent of the General Assembly. S.C. Code Ann. § 25-1-440 (a)(2). Statute addressing emergency executive authority is located at S.C. Code Ann. § 1-3-420.  |
| <b>South Dakota</b>   | No relevant provisions found. Statute addressing emergency executive authority is located at S.D. Codified Laws § 34-48A-5.  |
| <b>Tennessee</b>      | No relevant provisions found. Statute addressing emergency executive authority is located at Tenn. Code Ann. § 58-2-107.   |
| <b>Texas</b>          | The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster. Tex. Gov't Code Ann. § 418.014.   |
| <b>Utah</b>           | A state of emergency may not continue for longer than 30 days unless extended by joint resolution of the Legislature, which may also terminate a state of emergency by joint resolution at any time. The governor shall issue an executive order ending the state of emergency on receipt of the Legislature's resolution. <u>Utah Code § 53-2a-206</u> . The governor may not take an executive action in response to an epidemic or pandemic disease until the governor has provided notice of the proposed action to the legislative pandemic response team no later than 24 hours before the governor issues the executive action. <u>Utah Code § 2a-215</u> The Legislature may at any time terminate by joint resolution: (a) an order, a rule, or a regulation made by the governor as described in Section <u>53-2a-209</u> ; an order, (b) an action by the governor to suspend the enforcement of a statute as described in Subsection <u>53-2a-209(4)</u> ; or (c) an executive action as described in Section <u>53-2a-215</u> . |

## ATTACHMENT B

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| <b>Vermont</b>        | The governor, upon receiving notice that a majority of the legislative body of a municipality affected by a natural disaster no longer desires that the state of emergency continue within its municipality, shall declare the state of emergency terminated within that particular municipality. Vt. Stat. Ann. tit. 20, § 13.  |
| <b>Virginia</b>       | The Governor shall cause copies of any order, rule, or regulation proclaimed and published by him pursuant to § 44-146.17 to be transmitted forthwith to each member of the General Assembly. Va. Code Ann. § 44-146.17:1.   |
| <b>Virgin Islands</b> | No state of emergency may continue for longer than 30 days unless renewed by the governor. The governor may renew the initial state of emergency for one additional 30-day period. To extend the state of emergency beyond the two 30-day periods, before the expiration of the second 30-day period, the governor shall submit legislation to the Legislature requesting an extension of the state of emergency. The request must include the specific reasons for the extension, the time period of the extension, and a plan of action to address the conditions that necessitate the extension of the state of emergency. All subsequent requests for an extension must be submitted to the Legislature before the expiration of the extension that is in effect. The Legislature shall consider a request for an extension of the state of emergency not later than 5 days after its receipt. If the Legislature fails to consider the request within the 5-day period, the state of emergency is automatically extended for an additional 30 days. The Legislature may limit or modify the emergency powers granted to the Governor. 23 V.I.C. § 1005. |
| <b>Washington</b>     | No order or orders concerning waiver or suspension of statutory obligations or limitations (during a declared emergency) may continue for longer than 30 days unless extended by the legislature through concurrent resolution. If the legislature is not in session, the waiver or suspension of statutory obligations or limitations may be extended in writing by the leadership of the senate and the house of representatives until the legislature can extend the waiver or suspension by concurrent resolution. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives. Wash. Rev. Code Ann. § 43.06.220.  |
| <b>West Virginia</b>  | Any state of emergency or state of preparedness, whether proclaimed by the governor or by the Legislature, terminates upon the proclamation of the termination by the governor, or the passage by the Legislature of a concurrent resolution terminating the state of emergency or state of preparedness. W. Va. Code Ann. § 15-5-6.   |
| <b>Wisconsin</b>      | A state of emergency shall not exceed 60 days, unless the state of emergency is extended by joint resolution of the legislature. A copy of the executive order shall be filed with the secretary of state. The executive order may be revoked at the discretion of either the governor by executive order or the legislature by joint resolution. Wis. Stat. Ann. § 323.10. Firearm limit to powers at Wis. Stat. Ann. § 323.24.   |
| <b>Wyoming</b>        | No relevant provisions found. Statute addressing emergency executive authority is located at Wyo. Stat. Ann. § 19-13-104.  |

## ATTACHMENT B

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*Statutes compiled by Nicholas Birdsong as of May 6, 2020. Updates for 2020 are in process; see also enacted 2020 and 2021 legislation below.*

ATTACHMENT C

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P.L. 2019 ch. 617

**An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of  
Maine in Response to the COVID-19 Public Health Emergency**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

**Whereas,** COVID-19 is a highly contagious and sometimes fatal disease that has infected more than 138,000 people and caused more than 5,000 deaths worldwide, including more than 1,600 infected and 41 deaths in the United States; and

**Whereas,** in response to this widespread disease, the World Health Organization has declared a pandemic, the President of the United States has declared a national emergency and the Governor of Maine has declared a civil state of emergency; and

**Whereas,** state and federal authorities, including the federal Centers for Disease Control and Prevention, the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the Governor of Maine have recommended cancellation and postponement of gatherings during the spring of 2020; and

**Whereas,** the most recommended ways of avoiding infection and further spreading the virus that causes the disease are for the authorities to reduce the number of public gatherings and for people to avoid large crowds; and

**Whereas,** in an effort to comply with these recommendations, colleges and universities across the nation have suspended their academic years and closed their campuses; professional and collegiate sports teams have placed their seasons on an indefinite hiatus; concerts, conferences and conventions that attract large crowds have been cancelled; and the United States Congress has barred the public from the grounds of the United States Capitol; and

**Whereas,** municipal leaders seek to ensure public safety by acting in concert with public health guidelines by discouraging large gatherings and also recognize the likelihood of low voter turnout at meetings held, depriving voters of full participation in municipal decisions; and

**Whereas,** there is no procedure in Maine law to postpone a municipal secret ballot election or nomination process already in progress, and delay of municipal budget meetings will deprive municipal authorities of legal authority to spend and continue operations; and

**Whereas,** it is imperative that action be taken at the earliest possible moment to allow for continuity of services by municipalities despite the need to postpone meetings; and

**Whereas,** in addition to the assistance already being provided by the banks and credit unions in Maine, it is imperative that the State respond quickly and in an appropriate manner to the needs of its residents who have experienced a reduction in or loss of income due to the impact of COVID-19; and

**Whereas,** it is in the best interests of the citizens of Maine to temporarily provide authorization to the Governor to waive certain restrictions, deadlines and requirements and take other necessary measures that allow the State to react quickly, efficiently and effectively to the effects of the pandemic on the citizens of Maine; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

ATTACHMENT C

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

PART A

Sec. A-1. 37-B MRSA §742, sub-§1, ¶D is enacted to read:

D. For the duration of a state of emergency declared by the Governor pursuant to this section due to the outbreak of COVID-19, and for 30 days following the termination of that state of emergency, in addition to any other powers conferred by law, including those specified in paragraph C, notwithstanding any provision of law to the contrary, the Governor, in consultation with the Commissioner of Education, may implement for elementary and secondary schools a plan to:

(1) Waive the compulsory attendance requirements of Title 20-A, chapter 211 and any rules regarding compulsory attendance, including the minimum number of school days, or allow the compulsory attendance requirements to be met through nontraditional learning systems, including but not limited to remote access; and

(2) Continue to provide nutrition services to students when schools are closed in response to the threat posed by COVID-19.

This paragraph is repealed January 15, 2021.

PART B

Sec. B-1. 26 MRSA §1199 is enacted to read:

**§ 1199. Provisions under a declared state of emergency**

The provisions of this section apply for the duration of a state of emergency declared by the Governor pursuant to Title 37-B, section 742 due to the outbreak of COVID-19, and for 30 days following the termination of that state of emergency.

1. **Benefits not charged against employer.** Notwithstanding section 1191 or 1221, if an individual is dislocated or temporarily laid off as a result of the state of emergency, benefits paid to that individual under this subchapter may not be charged against the experience rating record of any employer but must be charged to the General Fund.

2. **Eligibility.** An individual is deemed to have met the eligibility requirements under section 1192, subsections 2 and 3 as long as the individual remains able and available to work for, and maintains contact with, the relevant employer and the individual is:

A. Under a temporary medical quarantine or isolation restriction to ensure that the individual has not been affected by the subject condition of the state of emergency and is expected to return to work; or



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B. Temporarily laid off due to a partial or full closure of the individual's place of employment as a result of the state of emergency and is expected to return to work once the emergency closure is lifted.

3. Waiting period waived. The waiting period requirement under section 1192, subsection 4-A is waived for an individual who is dislocated or temporarily laid off as a result of the state of emergency.

4. Temporary leave of absence due to COVID-19. Notwithstanding section 1193, subsection 1, during the state of emergency, an individual who is on a temporary leave of absence due to a medical quarantine or isolation restriction, a demonstrated risk of exposure or infection or a need to care for a dependent family member as a result of COVID-19 is not disqualified from receiving benefits during this absence as long as the individual continues to remain able and available to work for, and maintains contact with, the relevant employer.

### PART C

**Sec. C-1. 32 MRSA §83, sub-§16-B**, as amended by PL 2019, c. 370, §12, is further amended to read:

**16-B. Medical Direction and Practices Board.** "Medical Direction and Practices Board" means the board consisting of each regional medical director, an emergency physician representing the Maine Chapter of the American College of Emergency Medicine Physicians, an at-large member, a toxicologist or licensed pharmacist, a person licensed under section 85 to provide basic emergency medical treatment, a person licensed under section 85 to provide advanced emergency medical treatment, a pediatric physician, the statewide associate emergency medical services medical director and the statewide emergency medical services medical director. The Medical Direction and Practices Board is responsible for creation, adoption and maintenance of Maine Emergency Medical Services protocols pursuant to section 88-B.

**Sec. C-2. 32 MRSA §88, sub-§2, ¶H**, as amended by PL 1991, c. 588, §16, is further amended to read:

H. With the approval of the commissioner, the board may enter into contracts, subject to provisions of state law, and delegate this authority to the director. The board may also delegate to staff, through rules or emergency action, ~~to staff~~, any provision necessary to carry out this chapter, including the process of hearings. Funds appropriated or allocated to the board to be contracted with the regional councils may be disbursed on a sole-source contract basis, according to guidelines established by the board. Funds must be expended in accordance with standard state contract or grant procedures and guidelines where appropriate.

**Sec. C-3. 32 MRSA §88-B** is enacted to read:

#### **§ 88-B. Medical Direction and Practices Board; powers and duties**

1. Powers and duties. The Medical Direction and Practices Board has the following powers and duties.

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A. The Medical Direction and Practices Board shall create, adopt and maintain the Maine Emergency Medical Services protocols.

B. The Medical Direction and Practices Board may use videoconferencing and other technologies to conduct its business but is not exempt from Title 1, chapter 13, subchapter 1. Members of the Medical Direction and Practices Board and its staff may participate in a meeting of the Medical Direction and Practices Board or its staff via videoconferencing, conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this paragraph constitutes presence in person at such a meeting.

C. For the duration of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 and for 30 days following the termination of that state of emergency, the Medical Direction and Practices Board may, by majority vote, delegate its duties under this chapter to the statewide emergency medical services medical director and the statewide associate emergency medical services medical director.

### PART D

**Sec. D-1. Failure to pass municipal budget; deemed approved; tax commitment.**

Notwithstanding any law or municipal charter provision to the contrary, if an annual municipal budget meeting is delayed beyond the date the annual budget is customarily submitted to the legislative body of that municipality for approval due to public health concerns arising from COVID-19, the prior year's approved budget is deemed the budget for the ensuing year until a final budget is approved. If a final budget is not approved in a timely manner and the municipal officers determine that property taxes must be committed in a timely manner to the collector pursuant to the Maine Revised Statutes, Title 36, section 709, the municipal assessor or assessors may commit property taxes on the basis of the budget deemed approved under this section.

**Sec. D-2. Individual authorization of disbursements by municipal treasurer.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 5603, subsection 2, paragraph A or any other law or municipal charter provision or ordinance to the contrary, for the duration of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 and for 30 days following the termination of that state of emergency, a municipal treasurer may disburse money on the authority of a warrant drawn for that purpose seen and signed individually by a majority of the municipal officers outside of a public meeting.

**Sec. D-3. Postponement of secret ballot election.** Notwithstanding any law or municipal charter provision or ordinance to the contrary, during calendar year 2020, the municipal officers may postpone the date of a scheduled municipal secret ballot election when nomination papers have already been issued or filed by posting notice in a conspicuous public location at least 2 days prior to the date of the election. The notice must be signed by a majority of the municipal officers and must either:

1. State a specific date and time during which the polls will be open to complete the election; or
2. State that the date of a rescheduled election will be determined by the municipal officers.

The rescheduled election must be noticed by a warrant calling the election that is approved and posted pursuant to the Maine Revised Statutes, Title 30-A, section 2523 at least 7 days prior to the date of the rescheduled election.

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If ballots have been printed for the postponed election, the municipality may use those ballots despite inclusion of the original election date. If absentee ballots have been issued and returned, the municipality shall use the ballots printed for the originally scheduled election. The municipal clerk shall safeguard and secure any absentee ballots already returned until the date of the rescheduled election and shall process them as required by Title 21-A. During the interim period between the originally scheduled election and rescheduled election, the clerk may continue to issue and accept absentee ballots and applications and allow voting in the presence of the clerk pursuant to Title 21-A.

A municipal secret ballot referendum election is subject to the same rescheduling, ballot and absentee ballot provisions as set forth in this section.

**Sec. D-4. Retroactivity; repeal.** This Part applies retroactively to March 1, 2020 and is repealed January 15, 2021.

### PART E

**Sec. E-1. School budget.** Notwithstanding the Maine Revised Statutes, Title 20-A, section 15693, subsection 2, paragraph C or any other law or municipal charter provision or ordinance to the contrary, if, due to a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 and 30 days following the termination of that state of emergency, the level of state subsidy for the 2020-2021 school year is not finalized in accordance with Title 20-A, chapter 606-B before June 1, 2020, a school board may delay a school budget meeting otherwise required to be held before July 1, 2020 to a date on or after July 1, 2020. If a school board elects to delay a school budget meeting under this section, the meeting must be held and the budget approved within 30 days of the date the commissioner notifies the school board of the amount allocated to the school administrative unit under Title 20-A, section 15689-B or the termination of the state of emergency declared by the Governor due to COVID-19. When a school budget meeting is delayed under this section, the school administrative unit may continue operation of the unit at the same budget levels as were approved for the previous year. Continued operation under the budget for the previous year is limited to the time between July 1, 2020 and the date the new budget goes into effect. As used in this section, "state subsidy" means the total of the state contribution determined under Title 20-A, section 15688, subsection 3-A, paragraph D and any applicable adjustment under Title 20-A, section 15689.

**Sec. E-2. Retroactivity; repeal.** This Part applies retroactively to March 1, 2020 and is repealed January 15, 2021.

### PART F

**Sec. F-1. Registrations issued by a municipality.** This section affects certain registration and licensing performed at the municipal or county level.

**1. Vehicles and trailers.** Notwithstanding the Maine Revised Statutes, Title 29-A, chapter 5 or any other law or municipal charter provision or ordinance to the contrary, a registration, including a temporary registration, of a vehicle, including, without limitation, a motor vehicle, all-terrain vehicle, watercraft or snowmobile, or a trailer required to be registered in this State that expires during the period of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 is deemed extended until 30 days following the termination of the state of emergency.

**2. Renewal of licenses for sale of liquor.** Notwithstanding Title 28-A, section 653, subsection 1 or any other law or municipal charter provision or ordinance to the contrary, during the period of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 and 30 days following the termination of that state of emergency, the municipal officers or, in the case of unincorporated places, the county commissioners may grant the request for a renewal of a license issued pursuant to Title 28-A, Part 3 without a hearing; this subsection does not prohibit the

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municipal officers or county commissioners, as applicable, from denying a renewal of a license issued pursuant to Title 28-A, Part 3 based upon a finding specified in Title 28-A, section 653, subsection 2 or 3.

**3. Dog licenses.** Notwithstanding Title 7, chapter 721 or any other law or municipal charter provision or ordinance to the contrary, a license of a dog required to be licensed in this State that expires during the period of a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19 is deemed extended until 30 days following the termination of the state of emergency.

**4. Registration or license fees due.** The extensions granted pursuant to subsections 1 and 3 of this section do not change the registration or licensing interval for any vehicle or trailer or dog for which the registration or license period was extended, and all registration or licensing fees that would have been due but for the extension are due within 30 days of the termination of the state of emergency.

**Sec. F-2. Access to online registration.** The Secretary of State, Bureau of Motor Vehicles and the Department of Inland Fisheries and Wildlife, during the period of a state of emergency declared by the Governor in accordance with the Maine Revised Statutes, Title 37-B, section 742 due to the outbreak of COVID-19, shall allow a resident of this State to renew the registration of a motor vehicle, trailer, all-terrain vehicle or watercraft online, regardless of whether the municipality in which that resident resides participates in the online registration service maintained by the bureau or department, for the duration of the state of emergency and 30 days following the termination of the state of emergency.

### PART G

**Sec. G-1.** 1 MRSA §403-A is enacted to read:

**§ 403-A. Public proceedings through remote access during declaration of state of emergency due to COVID-19**

**1. Remote access.** Notwithstanding any provision of law or municipal charter provision or ordinance to the contrary, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19, a body subject to this subchapter may conduct a public proceeding through telephonic, video, electronic or other similar means of remote participation under the following conditions:

**A. Notice of the public proceeding has been given in accordance with section 406, and the notice includes the method by which the public may attend in accordance with paragraph C;**

**B. Each member of the body who is participating in the public proceeding is able to hear and speak to all the other members during the public proceeding and members of the public attending the public proceeding in the location identified in the notice given pursuant to paragraph A are able to hear all members participating at other locations;**

**C. The body determines that participation by the public is through telephonic, video, electronic or other similar means of remote participation; and**

**D. All votes taken during the public proceeding are taken by roll call vote.**

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**2. Application to legislative proceedings.** This section does not apply to public proceedings of the Legislature, a legislative committee or the Legislative Council, except that while the state of emergency as set out in subsection 1 is in effect, the Legislature, a legislative committee or the Legislative Council may restrict attendance by the public to remote access by telephonic, video, electronic or other similar means. This section also does not apply to town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings pursuant to Title 20-A, section 1483.

**3. Repeal.** This section is repealed 30 days after the termination of the state of emergency as set out in subsection 1.

### PART H

**Sec. H-1. 37-B MRSA §742, sub-§1, ¶C,** as amended by PL 2011, c. 626, §2, is further amended to read:

C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:

- (1) Suspend the enforcement of any statute prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of the statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency;
- (2) Utilize all available resources of the State Government and of each political subdivision of the State as reasonably necessary to cope with the disaster emergency;
- (3) Transfer the direction, personnel or functions of state departments and agencies, or units thereof, for the purposes of performing or facilitating emergency services;
- (4) Authorize the obtaining and acquisition of property, supplies and materials pursuant to section 821;
- (5) Enlist the aid of any person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;
- (6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery;
- (7) Prescribe routes, modes of transportation and destinations in connection with evacuations;

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(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;

(9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(10) Make provision for the availability and use of temporary emergency housing;

(11) Order the termination, temporary or permanent, of any process, operation, machine or device which may be causing or is understood to be the cause of the state of emergency for which this proclamation was made; and

(12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area; and

(13) During a state of emergency declared by the Governor in accordance with this section due to the outbreak of COVID-19:

(a) Reasonably adjust time frames and deadlines imposed by law for state, county and municipal governments and other entities when such an adjustment is reasonably necessary to mitigate an effect of the emergency;

(b) In consultation with the Public Utilities Commission, suspend the termination of residential electricity and water services during the period of emergency and up to 60 days after the state of emergency is terminated; and

(c) Modify or suspend the requirements for professional or occupational licensing or registration by any agency, board or commission if strict compliance with such requirements would in any way prevent, hinder or delay necessary action in dealing with the emergency.

The powers granted in divisions (a) and (c) terminate 30 days following the termination of the state of emergency.

### PART I

Sec. I-1. 5 MRSA §157 is enacted to read:

#### **§ 157. Loan Guarantee Program Fund established**

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**1. Establishment; purpose.** The Loan Guarantee Program Fund, referred to in this section as "the fund," is established as a nonlapsing Other Special Revenue Funds account within the Office of the Treasurer of State. All money received by the fund from any source, including any transfers from the General Fund unappropriated surplus, must be credited to the fund. Money credited to the fund must be used to guarantee the repayment of loans made by a credit union or financial institution to an eligible affected employee pursuant to the Loan Guarantee Program established in Title 10, chapter 110, subchapter 14.

**2. Termination; repeal.** The fund is terminated on June 30, 2022. Upon the termination of the Loan Guarantee Program, the State Controller shall transfer any funds remaining in the fund to the unappropriated surplus of the General Fund.

Sec. I-2. 10 MRSA c. 110, sub-c. 14 is enacted to read:

### SUBCHAPTER 14

### **LOAN GUARANTEE PROGRAM**

#### **§ 1100-BB. Definitions**

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

**1. Affected employee.** "Affected employee" means a resident of this State, including a self-employed resident, who has experienced a reduction in income since January 1, 2020 due to circumstances related to COVID-19.

**2. Credit union.** "Credit union" has the same meaning as "credit union authorized to do business in this State" as defined in Title 9-B, section 131, subsection 12-A.

**3. Eligible affected employee.** "Eligible affected employee" means an affected employee who is eligible to receive a loan as determined pursuant to section 1100-DD, subsection 1.

**4. Financial institution.** "Financial institution" has the same meaning as in Title 9-B, section 131, subsection 17-A.

**5. Grace period.** "Grace period" means the 90-day period after an eligible affected employee receives disbursement of a loan under this subchapter.

**6. Loan guarantee payment.** "Loan guarantee payment" means the amount paid by the Treasurer of State in satisfaction of a claim filed by a credit union or financial institution pursuant to section 1100-EE.

**7. Program.** "Program" means the Loan Guarantee Program established in section 1100-CC.

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### § 1100-CC. Loan Guarantee Program established

1. Establishment; purpose. The Loan Guarantee Program is established within and administered by the authority. The authority shall guarantee the repayment of loans made by a credit union or financial institution to an eligible affected employee pursuant to section 1100-EE. The authority shall submit all approved claims to the Treasurer of State, who shall pay from the Loan Guarantee Program Fund, established in Title 5, section 157, any claims submitted by the authority pursuant to the program.

2. Notification of loan and borrower information. Each credit union or financial institution that makes a loan pursuant to section 1100-DD shall notify the authority in writing not later than one business day after making the loan, specifying such information about the borrower as the authority may request.

### § 1100-DD. Eligibility of affected employees; loan terms; process

1. Determination of eligibility of affected employee. A credit union or financial institution may make a loan to an affected employee who meets the following eligibility requirements.

A. An affected employee shall provide the credit union or financial institution proof that the affected employee has experienced a reduction in income and is a resident of this State. An affected employee may meet the requirements of this paragraph by providing to the credit union or financial institution proof such as a pay stub or bank statement indicating earned income in any 3 months prior to March 1, 2020.

B. In addition to the proof required in paragraph A, an affected employee shall submit to the credit union or financial institution a sworn affidavit from the affected employee stating:

(1) The affected employee is currently living in the State;

(2) The affected employee has experienced a reduction in income likely due to circumstances related to COVID-19 and is not receiving a loan from any other credit union or financial institution pursuant to this subchapter; and

(3) The amount of unemployment compensation benefits, if any, pursuant to Title 26, chapter 13:

(a) The affected employee received per week during the period of March 15, 2020 to December 31, 2020; and



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(b) The affected employee is eligible to receive per week during the period of March 15, 2020 to December 31, 2020.

**2. Loan amount.** The amount of the loan, after subtracting 4 times the amount, if any, the affected employee has reported to the credit union or financial institution under subsection 1, paragraph B, subparagraph (3), division (a) or (b), whichever is greater, may not exceed the lesser of:

- A. Five thousand dollars; and
- B. The affected employee's most recent monthly after-tax pay.

**3. Creditworthiness.** A credit union or financial institution may not use an affected employee's creditworthiness as a factor for the purposes of determining eligibility for a loan under this subchapter.

**4. Terms of loan agreement.** Notwithstanding any provision of law to the contrary, the following terms apply to a loan issued pursuant to this subchapter.

A. A loan agreement may not:

(1) Require repayment during the grace period;

(2) Charge interest on the principal amount before or during the grace period or for 180 days after the grace period; or

(3) Contain a fee or penalty for the prepayment or early payment of the loan.

B. The loan agreement must require that the affected employee repay the loan in full not later than 180 days after the end of the grace period by making at least 3 and no more than 6 equal installment payments.

C. After 180 days have elapsed following the grace period, the credit union or financial institution may charge interest or fees in accordance with the credit union's or financial institution's lending policy and the terms of the loan agreement.

**5. Multiple loans to same eligible affected employee.** An eligible affected employee who has received a loan pursuant to this section may apply to the same credit union or financial institution for an additional loan for each 30-day period that the employee remains an eligible affected employee, except that an eligible affected employee may not receive more than 3 loans under the program. An

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eligible affected employee who applies for an additional loan shall provide the credit union or financial institution with updated information as required under subsection 1, including the amount of unemployment compensation benefits the employee has been determined eligible to receive or has received during the period of March 1, 2020 to December 31, 2020. Each additional loan must be made in accordance with this section.

**6. Treatment of deferred interest.** Notwithstanding any provision of Title 36, Part 8 to the contrary, any interest deferred or not charged related to a loan issued pursuant to this section is exempt from all state taxes that may be applicable to such interest amounts as they relate to an affected employee. A credit union or financial institution shall disclose to eligible affected employee borrowers in the signed affidavit or loan documents that there may be federal tax consequences to the program loans and that loan information may be shared with the authority.

### **§ 1100-EE. Loan guarantee**

**1. Claims.** No sooner than the 180th day following the end of the grace period and no later than the 300th day following the end of the grace period, a credit union or financial institution that has made a good faith effort to collect the outstanding principal of a loan issued pursuant to section 1100-DD and has been unsuccessful may make a claim to the authority for recovery of an amount equal to the outstanding principal of that loan.

A credit union or financial institution shall demonstrate, by affidavit or other documentation, to the satisfaction of the authority that the credit union or financial institution has made a good faith effort to collect the outstanding principal from the eligible affected employee substantially in accordance with the credit union's or financial institution's loan servicing and collection policies and has been unsuccessful.

**2. Loan guarantee payment.** The authority, upon receipt of a properly documented claim submitted by a credit union or financial institution pursuant to subsection 1, shall submit the claim immediately to the Treasurer of State for payment. The Treasurer of State immediately shall pay to the authority from the Loan Guarantee Program Fund established in Title 5, section 157 any claims submitted by the authority pursuant to the program. The authority shall distribute the loan guarantee payment to the credit union or financial institution.

**3. Effect of payment of claim.** After payment of a loan guarantee payment to a credit union or financial institution pursuant to subsection 2:

A. The loan must be assigned by the credit union or financial institution to the authority on behalf of the State; and

B. The authority shall continue collection efforts on the loan.

### **§ 1100-FF. Duties and powers of authority**

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**1. Maintenance and review of records.** The authority shall maintain records in the regular course of administration of the program, including a record of loans issued pursuant to section 1100-DD and loan guarantee payments issued pursuant to section 1100-EE, subsection 2 to honor claims on defaulted loans. The authority shall regularly review these records to monitor all the loans issued and identify duplicative applications.

**2. Termination of loan recovery guarantee based on misrepresentation by credit union or financial institution.** The authority may terminate any agreement to pay the claim of a credit union or financial institution pursuant to section 1100-EE if the credit union or financial institution misrepresents any information pertaining to the loan or fails to comply with any requirements of this section or section 1100-EE in connection with the claim for the loan.

**3. Termination of loan recovery guarantee based on excess claims.** If the amount expended for loan guarantee payments under section 1100-EE equals 10% of the total of all loans issued, the authority shall immediately cease to approve claims and shall notify the Treasurer of State and each credit union or financial institution of the total amount of loan guarantee payments made and that the authority has ceased honoring loan claims. The authority may delay payment of claims until it has calculated an amount that equals 10% of the total loans issued.

**4. Recovery of defaulted loans.** The authority, on its own or by contracting with a private entity, shall make reasonable efforts to recover the amount of guaranteed loan payments made pursuant to section 1100-EE, subsection 2. Any funds recovered pursuant to this subsection, less reasonable administrative costs, must be deposited in the Loan Guarantee Program Fund established in Title 5, section 157.

### **§ 1100-GG. Termination of program; repeal**

**1. New loans prohibited after December 31, 2020.** An affected employee may not apply for a loan under the program after December 31, 2020. A credit union or financial institution may not approve a loan under the program after December 31, 2020.

**2. Termination.** The program terminates upon the earlier of the:

A. Repayment or discharge of all loans made under the program;

B. Payment of all claims filed pursuant to section 1100-EE that are eligible for loan guarantee payments; and

C. Repayment or discharge of loan guarantee payments.

**3. Repeal.** This subchapter is repealed upon the termination of the program.

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**Sec. I-3. Transfer.** Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$500,000 from the General Fund unappropriated surplus to the Loan Guarantee Program Fund established within the Office of the Treasurer of State pursuant to the Maine Revised Statutes, Title 5, section 157 no later than April 1, 2020 to be used to guarantee the repayment of loans made by a credit union or financial institution to an eligible affected employee pursuant to Title 10, chapter 110, subchapter 14.

**Sec. I-4. Additional transfer and allocation.** The Joint Standing Committee on Appropriations and Financial Affairs may report out legislation to the 129th Legislature to address any funding needs of the Loan Guarantee Program established in the Maine Revised Statutes, Title 10, chapter 110, subchapter 14.

**Sec. I-5. Appropriations and allocations.** The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF**

**Administration - Treasury 0022**

Initiative: Creates the Loan Guarantee Program Fund and provides allocations in order to guarantee repayment of loans made by credit unions and financial institutions to eligible affected employees.

| <b>OTHER SPECIAL REVENUE FUNDS</b>       | <b>2019-20</b>   | <b>2020-21</b>   |
|--|------------------|------------------|
| All Other                                | \$500,000        | \$500,000        |
| <b>OTHER SPECIAL REVENUE FUNDS TOTAL</b> | <b>\$500,000</b> | <b>\$500,000</b> |

**PART J**

**Sec. J-1. 38 MRSA §1611, sub-§3, ¶A,** as enacted by PL 2019, c. 346, §2, is amended to read:

A. Beginning ~~April 22, 2020~~ January 15, 2021 a retail establishment may use a recycled paper bag or a reusable bag made of plastic to bag products at the point of sale as long as the retail establishment charges a fee of at least 5¢ per bag.

(1) All amounts collected pursuant to this paragraph are retained by the retail establishment and may be used for any lawful purpose.

(2) A retail establishment may not rebate or otherwise reimburse a customer any portion of the fee charged pursuant to this paragraph.

**Sec. J-2. 38 MRSA §1611, sub-§5,** as enacted by PL 2019, c. 346, §2, is amended to read:

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**5. Preemption.** To ensure maximum effectiveness through uniform statewide application, the State intends to occupy the whole field of regulation of single-use carry-out bags at retail establishments beginning ~~April 22, 2020~~ March 17, 2020. A local government may not adopt an ordinance regulating single-use carry-out bags at retail establishments and, beginning ~~April 22, 2020~~ January 15, 2021, any ordinance or regulation that violates this subsection is void and has no force or effect.

### PART K

**Sec. K-1. 22 MRSA §822**, as amended by PL 2009, c. 299, Pt. A, §3, is repealed and the following enacted in its place:

#### **§ 822. Reporting**

**1. Notification by physician.** Whenever a physician knows or has reason to believe that a person whom the physician examines or cares for has a disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by rules of the department. Reports must be in the form and content prescribed by the department and the department shall provide forms for making required reports.

**2. Reporting by health care facilities.** The department may require a designated health care facility, as defined in section 802, subsection 4-A, paragraph A, to report information about its emergency management plans and operations. The department also may require a designated health care facility to report other information, including, but not limited to, daily reporting of the number of available beds within that facility providing residential or inpatient services and for the reporting to be done through an online database approved by the department. The department may adopt rules that designate further information required for reporting emergency plans. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

### PART L

**Sec. L-1. Facilitation of voting for June 9, 2020 elections.** Only for the elections scheduled to be held on June 9, 2020, the Governor may take any reasonable administrative actions the Governor considers necessary to facilitate voting by all residents registered to vote in this State in a manner that preserves and protects public health in response to COVID-19. Pursuant to the Constitution of Maine, Article II, Section 4, these administrative actions may include, but are not limited to, issuance and receipt of absentee ballots for the June 9, 2020 elections, as long as those actions are also designed to facilitate participation by all registered voters, protect the rights of those voters and safeguard the integrity of the election.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective 90 days following adjournment of the 129th Legislature, Second Regular Session, unless otherwise indicated.



**ATTACHMENT D TITLE 5, PART 4: FINANCE**

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- Chapter 141: GENERAL PROVISIONS §1501 - §1523
- Chapter 142: MAINE BUDGET STABILIZATION FUND §1531 - §1536
- Chapter 143: ACCOUNTS AND CONTROL §1541 - §1550-A
- Chapter 144: PAYMENT OF INVOICES RECEIVED FROM BUSINESS CONCERNS §1551 - §1558
- Chapter 145: APPROPRIATIONS §1581 - §1591
- Chapter 147: AUDITING §1621 - §1622
- Chapter 148: HUMAN SERVICE COMMUNITY AGENCY ACCOUNTING PRACTICES ACT §1631 - §1636
- Chapter 148-A: SOCIAL SERVICES PLANNING AND EXPENDITURES §1641 - §1643
- Chapter 148-B: MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES ACT FOR COMMUNITY AGENCIES §1651 - §1660-B
- Chapter 148-C: MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES ACT FOR COMMUNITY AGENCIES §1660-C - §1660-M
- Chapter 149: BUDGET §1661 - §1677
- Chapter 150: FEDERAL EXPENDITURE BUDGET §1681 - §1686
- Chapter 151: INSURANCE ON PUBLIC BUILDINGS §1701 - §1702
- Chapter 151-A: LEGISLATIVE REVIEW §1705 - §1706
- Chapter 151-B: CONSENSUS REVENUE FORECASTING §1710 - §1710-J
- Chapter 151-C: COMMISSION ON PERFORMANCE BUDGETING §1710-K - §1710-Q
- Chapter 152: INSURANCE ON STATE-OWNED PROPERTY §1711 - §1737
- Chapter 153: PUBLIC IMPROVEMENTS §1741 - §1776
- Chapter 154: LEASE OF STATE-OWNED FACILITIES §1781 - §1786
- Chapter 155: PURCHASES §1811 - §1826-D
- Chapter 155-A: CENTRAL FLEET MANAGEMENT AND CENTRAL SERVICES §1827 - §1830
- Chapter 156: DEPARTMENT CONTRACTS AND APPEAL OF DECISIONS §1831 - §1833
- Chapter 157: DATA PROCESSING AND CENTRAL COMPUTER SERVICES §1851 - §1861
- Chapter 158: ADMINISTRATIVE SERVICES §1871 - §1896
- Chapter 159: COOPERATIVE EDUCATION SUPPORT PROGRAM §1901 - §1903
- Chapter 161: DIVESTITURE OF STATE FUNDS §1951 - §1956
- Chapter 163: OFFICE OF INFORMATION TECHNOLOGY §1971 - §2011
- Chapter 165: PHARMACEUTICAL COST MANAGEMENT COUNCIL §2031
- Chapter 167: MAINE PRESCRIPTION DRUG AFFORDABILITY BOARD (WHOLE CHAPTER CONFLICT: Text as enacted by PL 2019, c. 471, §1) §2041 - §2042
- Chapter 167: WHOLESALE PRESCRIPTION DRUG IMPORTATION PROGRAM (WHOLE CHAPTER CONFLICT: Text as enacted by PL 2019, c. 472, §1) §2041 - §2044

