

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

New Draft of: S. P. 462, L. D. 1385

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1792

S. P. 612

In Senate, May 28, 1971

Reported by Minority from Committee on State Government and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to the Maine Area Land Development Authority.

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

Sec. 1. R. S., T. 10, Part 10, additional. Title 10 of the Revised Statutes is amended by adding a new Part 10, to read as follows:

PART 10

AREA LAND DEVELOPMENT

CHAPTER 803

MAINE AREA LAND DEVELOPMENT AUTHORITY

§ 8001. Findings and purpose

It is found and declared that: Local planning and development controls in this State are inadequate to cope with the pressures placed on land and its development in rapidly growing urban areas and in rural areas subjected to sudden commercial and industrial development; efficiency and economy in the provision of public services, both in capital outlay and operating cost, depend upon a sound method of acquiring land and for the planning of its use for future public rural and urban development uses, such as regional industrial parks; public acquisition of land, the planning of its use and the establishment of sound development standards would help conserve one of the State's primary resources, its natural environment; private enterprise has encountered difficulty in providing new industrial, commercial and residential facilities in new large-scale developments, because of problems in assembling land suitable for building sites, the difficulty of attracting private capital at reasonable cost to finance development and the difficulty of private enterprise

alone to plan, finance, and coordinate industrial and commercial development with residential developments, and with adequate public services to serve the development; state acquisition, improvement, and disposition of land around the fringe of urban growth areas and in rural areas in anticipation of future growth, provide a major method for implementing state and local growth and environmental protection policies for assisting private enterprise in the creation of job opportunities.

It is further declared that it is the policy of this State to promote the safety, health and welfare of the people through sound community development by private enterprise in partnership with public initiative and public acquisition of land for public and private use.

§ 8002. Definitions

As used in this chapter:

1. Area land development agency. "Area land development agency" means an agency created by section 8008.

2. Authority. "Authority" means Maine Area Land Development Authority created by section 8003.

3. Improvement. "Improvement" means provision of public improvements, such as streets, sewer and water lines and other utilities, recreational facilities, and other facilities as the authority may deem necessary or desirable.

4. Municipality. "Municipality" means any county, city or town.

5. Project. "Project" means an undertaking or improvement including lands, buildings, real properties or machinery and equipment with auxiliary real or personal property, or any interest therein, that are acquired, owned, constructed or improved by the authority or area land development agency in accordance with, and in furtherance of, the state's development plan. A project shall consist of at least 50 acres or a smaller area only if it is found by the authority to be an integral part of a large scale development or new community established in accordance with the state's urbanization plan.

6. Revenue obligation securities. "Revenue obligation securities" means bonds and notes issued by the authority pursuant to this chapter.

§ 8003. Maine Area Land Development Authority; advisory council

The Maine Area Land Development Authority, hereinafter in this chapter called the "authority", is created and established as a body corporate and politic and is constituted a public instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions. The authority shall consist of 9 members, including the Commissioner of Economic Development, and 8 members at large appointed by the Governor with the advice and consent of the Council for a period of 4 years, provided that of the members first appointed, 2 shall be appointed for a term of one year, 2 for a

term of 2 years, 2 for a term of 3 years and 2 for a term of 4 years. A vacancy in the office of an appointive member, other than by expiration, shall be filled in like manner as an original appointment, but only for the remainder of the term of the retiring member. Appointive members may be removed for cause by the Governor with the advice and consent of the Council. The authority shall elect one of its members as chairman, one as vice-chairman, one as treasurer, and shall employ a manager, who shall be secretary. The secretary and treasurer shall be bonded as the authority shall direct. Five members of the authority shall constitute a quorum. The affirmative vote of 5 members, present and voting, shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of the quorum to exercise all rights and perform all the duties of the authority.

All the members of the authority shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

The manager shall be appointed by the authority and his tenure of office shall be at the pleasure of the authority. He shall receive such compensation as shall be fixed by the authority with the approval of the Governor and Council.

The manager shall be the chief administrative officer for the authority and as such shall direct and supervise the administrative affairs and technical activities of the authority in accordance with rules, regulations and policies as set forth by the authority. It shall be the duty of the manager among other things to:

1. Attend meetings and keep minutes. Attend all meetings of the authority and to act as its secretary and keep minutes of all of its proceedings;
2. Approve accounts and expenses. Approve all accounts for salaries, per diems, allowable expenses of the authority or of any employee or consultant thereof, and expenses incidental to the operation of the authority;
3. Appoint employees. Appoint, under the Personnel Law, such employees as the authority may require, and such assistants, agents or consultants as may be necessary for carrying out the purposes of this chapter;
4. Reports. Make to the authority an annual report documenting the actions of the authority and such other reports as the authority may request;
5. Liaison. Maintain a liaison and close working relationship with the State Planning Office, Environmental Improvement Commission, Maine Land Use Regulation Commission and other departments of State Government.
6. Other duties. Perform such other duties as may be directed by the authority in the carrying out of the purposes of this chapter.

The Governor may appoint a Land Development Advisory Council to advise and make recommendations to the authority with respect to development policies and programs in order to encourage maximum participation by the private sector of the economy. The council may consist of not more than 25 members who shall serve at the pleasure of the Governor. Members shall

serve without salary but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties.

The authority may establish one or more local advisory committees to consider and advise the authority upon matters submitted to it concerning the development of any area or any project.

§ 8004. Powers and duties

The authority shall have the power to:

1. **Contracts.** Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

2. **Property.** Acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency by grant, gift, purchase, condemnation or otherwise, leaseholds, real, personal or mixed property or any interest therein; and to own, hold, clear, improve and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same, or any portion thereof;

3. **Agencies.** Carry out its responsibilities and perform its functions through one or more area land development agencies. To carry out the purpose of this chapter, the authority may transfer to any area land development agency any moneys, real or personal property, mixed property, or any project, or any portion thereof;

4. **Projects.** Acquire, construct, reconstruct, improve, alter or repair or provide for the construction, reconstruction, improvement, alteration or repair of any project or any portion thereof for development and construction of utilities, streets and related improvements;

5. **Arrangements with municipalities.** Arrange or contract with a municipality for the planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places or for the furnishing of facilities or for the acquisition by a municipality of property or property rights or for the furnishing of property or services in connection with a project or any portion thereof;

6. **Disposition of project.** Sell, lease, assign, transfer, convey, exchange, mortgage or otherwise dispose of or encumber any project or any portion thereof and in the case of the sale of any project or any portion thereof, to accept a purchase money mortgage in connection therewith; and to lease, repurchase or otherwise acquire and hold any project which the authority has theretofore sold, leased or otherwise conveyed, transferred or disposed of;

7. **Options to purchase.** Grant options to purchase any project or any portion thereof or to renew any leases entered into by it with respect to any of its projects or any portion thereof on such terms and conditions as it may deem advisable;

8. **Plans.** Prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction, rehabilitation, improvement, al-

teration or repair of any project, or any portion thereof; from time to time to modify such plans, specifications, designs or estimates; and to hold public hearings on such plans;

9. Management. Manage any project or any portion thereof whether then owned or leased by the authority, and to enter into agreements with any state agency, municipality, county, or any agency or instrumentality thereof, or with any person, firm, partnership or corporation, either public or private, for the purpose of causing any project or any portion thereof to be managed;

10. Services. Provide advisory, consultative, training and educational services, technical assistance and advice to any state agency, municipality, county or agency or instrumentality thereof, any person, firm, partnership or corporation, either public or private, in order to carry out the purposes of this chapter;

11. Modifications. Subject to any contract with noteholders or bondholders, to consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security or any other term, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;

12. Bonds and notes. Borrow money and to issue its negotiable bonds and notes as provided:

13. Security. As security for the payment of the principal of and interest on any securities so issued and any covenants made with respect thereto, mortgage and pledge any or all of its projects, or any portions thereof whether then owned or thereafter acquired, pledge the revenues and receipts therefrom or from any thereof, assign or pledge the lease or leases on any portion or all of said projects and assign or pledge the income received by virtue of said lease or leases;

14. Investments. Invest any funds held in reserve or sinking funds or any moneys not required for immediate use or disbursement, at the discretion of the authority and with the approval of the Treasurer of State, in obligations of the State or of the United States Government or obligations the principal and interest of which are guaranteed by the State or the Government of the United States;

15. Insurance. Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;

16. Consultants. Engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

17. Aids. Contract for and accept any moneys, gifts, grants or loans of funds or property or financial or other aid in any form from the Federal Government or any agency or instrumentality thereof, or from the State or any agency or instrumentality thereof, or from any other source and to comply, subject to this chapter, with the terms and conditions thereof; and

18. Other duties. Do any and all other things, not in conflict with other provisions of this chapter, necessary or convenient to carry out the purposes and exercise the powers given and granted in this chapter.

§ 8005. Findings of land acquisition

Notwithstanding any other provision of this chapter, the authority shall not undertake the acquisition and improvement of a project unless:

1. Local needs. Consideration has been given to local needs and desires as expressed in local and regional plans and to state-wide needs set forth in state urbanization policies and plans;

2. Plans filed. Project plans have been filed with officials of the municipalities involved, including the local and regional planning agency;

3. Publication of hearing. There is published in at least one newspaper of general circulation in the county or counties in which the project is proposed to be located a notice of public hearing to be held on the plan for acquisition, such hearing to be held not less than 30 days after publication;

4. Housing accommodations. The planning and development of the project will provide for safe and sanitary housing for persons or families of low income within or proximate to the project area;

5. Aid State and the area. The acquisition and construction, proposed leasing, operation and use of such project will aid in the development, growth and prosperity of the State and the area in which such project is located;

6. Private participation. The plan or undertaking affords opportunity for participation of private enterprise, consistent with public needs;

7. Relocation of individuals. There is provision for the prompt relocation of families and individuals displaced from the project area into decent, safe, and sanitary dwellings, which are or will be provided in the accessible vicinity of the project area, though not necessarily within the project area, at rents or prices within the financial means of those displaced. The authority may render to business and commercial tenants displaced from the project area such assistance as it may deem necessary to enable them to relocate;

8. Conformance to environmental statutes. All project activities are consistent with and in conformance with all municipal, state and federal statutes relating to environmental protection and site location.

§ 8006. Sale or lease of land

1. Sell or lease to agencies. The authority may sell or lease for a term not exceeding 99 years all or any portion of the real property constituting a project to any public agency, person, firm, partnership or corporation, either public or private, upon such terms and conditions as may be approved by the authority whenever the authority shall find that such sale or lease is in conformity with a plan or undertaking for large-scale or new community development in the municipality in which the project is located.

Such sale or lease may be made:

A. To any area land development agency, subject to public notice and hearing; and

B. To any person, firm, partnership or corporation.

2. Notice published. There shall be published in at least one newspaper of general circulation in the county or counties in which the project is located a notice which shall include a statement of the identity of the proposed purchaser or lessee and of his proposed use or reuse of the project area or applicable portion thereof, the price or rental to be paid by such purchaser or lessee, all other essential conditions of such sale or lease and a statement that a public hearing upon such sale or lease will be held before the authority at a specified time and place on a date not less than 10 days after such publication and provided further that such public hearing is held in accordance with such notice.

3. Sale or lease to State or agencies. The authority may sell or lease for a term not exceeding 99 years any project, or part thereof, to the State or to any agency or instrumentality thereof, to any municipality or agency or instrumentality thereof or to any nonprofit corporation established for a public purpose, for use not inconsistent with the purposes of this chapter. Any such sale or lease may be made without public bidding, upon such terms and conditions as the authority, within its discretion, may determine to be necessary or desirable. The authority may enter into a contract for a sale or lease at the date of, or subsequent to the completion of the project by the authority. Where such contract for sale or lease is entered into after the commencement of construction and prior to the physical completion of the improvement to be sold or leased, the authority may complete the construction and development of such improvement prior to the actual conveyance or lease.

§ 8007. Improvement construction contracts

Construction contracts let by the authority shall be in conformity with regulations established by the authority.

The authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision or work for which the authority receives bids. Any construction contract awarded by the authority shall contain such other terms and conditions as the authority may deem desirable. The authority shall not award any construction contract except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable.

§ 8008. Area land development agencies authorized

Subject to the approval of the Governor, the authority may authorize any city or town or county, or combination thereof, to establish an area land development agency. Such authorization shall prescribe the purposes for which the area land development agency is to be formed.

§ 8009. Acquisition of real, personal or mixed property

The authority, upon making a finding that it is necessary or convenient to acquire any real, personal or mixed property for its immediate or future use,

may acquire such property in any lawful manner, including eminent domain where not inconsistent with this chapter, notwithstanding that such property may already be devoted to public use, nor shall such property thereafter be taken for any other public use without the consent of the Governor.

The exercise of eminent domain by the authority shall be in accordance with the procedures set out for Urban Renewal Authorities under Title 30, section 4807.

Every reasonable effort shall be made to acquire the real, personal or mixed property by negotiated purchase. It shall be the policy of the authority, before initiating negotiations for real property, to establish a price which it believes to be a fair and reasonable consideration therefor, and to make a prompt offer to acquire the property for the full amount so established.

Prior to the commencement of eminent domain proceedings, the authority shall cause a survey, map and inventory to be made of the property to be condemned and file the same in its office. There shall be annexed thereto a certificate, executed by such officer or employee as the authority may designate, stating that the property described in such survey and map is necessary for public purposes.

It shall be lawful for the duly authorized agents of the authority to enter the real property, at reasonable hours and with adequate notice, for the purpose of making such surveys and maps or for the purpose of making such sounding, borings, and appraisals as may be deemed necessary.

No award of compensation shall be increased by reason of any increase in the value of real property caused by the actual or proposed acquisition or the use or disposition by the authority of any other real property for public purposes.

Any decrease in the value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for the proposed public improvement, other than that due to physical deterioration with the reasonable control of the owner, will be disregarded in determining the compensation for the property.

For the purposes of determining the extent of the acquisition of real property and the value thereof, no building, structure or other improvement will be deemed to be other than a part of the real property solely because of the right or obligation of a tenant, as against the owner or any other interest in the real property, to remove such building, structure or improvement, and than an amount not less than the value which such building, structure or improvement contributes to the value of the real property acquired or the value of such building, structure or improvement for removal from the real property, whichever is the greater, will be paid to the tenant therefor.

All persons in possession of such property at the time of such vesting of title, shall at the option of the authority become tenants at will thereof and pay a rent to be agreed upon, unless within 10 days after vesting such persons actually remove from the premises.

§ 8010. Regulations

All projects acquired, constructed, improved, maintained or managed by the authority or by any area land development agency shall comply with the rules and regulations of the authority. If the requirements of any local law, code, charter, ordinance, zoning ordinance, rule or regulation are in conflict with the rules and regulations of the authority, the local law, code, charter, ordinance, zoning ordinance, rule or regulation shall prevail.

§ 8011. Revenue obligation securities

The authority may from time to time issue revenue obligation securities payable solely out of revenues and receipts derived from the sale or lease of its projects and properties. All revenue obligation securities shall be issued in the manner and form provided for municipal industrial and recreational obligations under Title 30, chapter 242, except that no local balloting shall be required. The rights, obligations and limitations upon security holders shall be as therein provided and the securities issued shall not pledge the full faith and credit of, nor constitute a debt or liability of the State or any political subdivision thereof. The provisions of said chapter, relating to tax exemption, refunding securities, remedies and taxation of leasehold interest, shall apply equally to securities issued by the authority.

§ 8012. Area Land Development Financing Fund

There is created a special account in the State Treasury to be known as the Area Land Development Financing Fund to which shall be credited the amount appropriated pursuant to this chapter, subsequent appropriations made by the Legislature for this purpose, any proceeds of sale of securities to the extent provided by the authority authorizing issuance thereof and any other moneys which may be made available to the authority for the purposes of this chapter from its own operations and from any other source or sources. The sum of \$50,000 is authorized for establishing the fund. The authority may expend whatever amounts are needed for the payments authorized by this chapter.

§ 8013. Payments to local governments

In order to prevent undue loss of revenues to political subdivisions during the period when land, real, personal or mixed property is being held or developed or managed by the authority, there shall be annually apportioned and paid by the State to any political subdivision in which a project is located, a sum equal to the annual taxes on such land, real, personal or mixed property, paid or due to the political subdivision.

§ 8014. Annual report

The authority shall submit to the Governor and the Legislature at the end of each fiscal year a report setting forth its operations and accomplishments, its receipts and expenditures, its assets and liabilities, and a schedule of its outstanding securities.

§ 8015. Liberal construction

This chapter, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect the purposes thereof.

§ 8016. Application of Title 32, chapter 13

The provisions of Title 32, chapter 13, relating to dealers in securities shall not apply to revenue obligation securities issued, reissued or refunded under this chapter.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Maine Area Land Development Authority the sum of \$183,700 to carry out the purposes of this Act. The breakdown shall be as follows:

	1971-72	1972-73
MAINE AREA LAND DEVELOPMENT AUTHORITY		
Personal Services	(3) \$ 33,000	(4) \$47,500
All Other	18,000	32,000
Capital Expenditures	2,000	1,200
*Fund Reserve	50,000	—
	<hr/> \$103,000	<hr/> \$80,700

* The above starred account shall be nonlapsing and remain a continuing account.

STATEMENT OF FACT

The purpose of this legislation is expressed in section 8001, Findings and Purpose, of this Act.