

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 813**

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H. P. 641

House of Representatives, February 26, 1975

Referred to the Committee on Local and County Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Carey of Waterville.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT to Clarify the Authority of Municipalities to Undertake Activities  
Pursuant to the Housing and Community Development Act of 1974.**

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

Whereas, the Housing and Community Development Act of 1974 has made funds available to the municipalities of the State for the provision of decent housing and suitable living environment and for the expansion of economic opportunities; and

Whereas, there is a critical and immediate need for the improvement of the housing stock and the expansion of economic opportunities within the State; and

Whereas, the Community Development Program period for the first program year has commenced on January 1, 1975 and will end on June 30, 1975; 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,

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

Sec. 1. 30 MRSA c. 239, sub-c. III-A is enacted to read:

**SUBCHAPTER III-A**  
**COMMUNITY DEVELOPMENT**

**§ 4851. Findings and declaration of necessity**

It is hereby found and declared that there exists in the municipalities of the State of Maine deteriorating, dilapidated, slum and blighted areas, dangerous buildings and incompatible uses of property, which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of this State; that the existence of such areas, buildings and uses contribute substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health, safety, for crime prevention, correction, prosecution, punishment and treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities; that such areas, buildings and uses constitute an economic and social liability, substantially impair or arrest the sound growth of municipalities; that these menaces are beyond remedy and control solely by regulatory process in the exercise of police power and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids herein provided; that the elimination of such areas, buildings and uses, the acquisition and preparation of land in or necessary to the redevelopment and rehabilitation of such areas, buildings and uses, and its sale or lease in accordance with community development programs adopted by such municipalities, any assistance which may be given by any state or federal public bodies or agencies and any money raised or appropriated by such municipalities in connection therewith, are public uses required by the public exigencies and are purposes for which public money may be expended and private property acquired; and that the necessity of the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

**§ 4852. Definitions**

The following terms wherever used or referred to in this subchapter shall have the following meanings unless a different meaning is clearly indicated by context:

**I. Blighted area. The term "blighted area" shall mean:**

**A. An area in which there is a predominance of buildings or improvements which, by reason of dilapidation, deterioration or age or obsolescence; or inadequate provision for ventilation, light, air, sanitation or open spaces, or high density of population and overcrowding; or the existence of conditions which endanger the life or property by fire and other causes; or any combination of such factors is conducive to ill health or transmission of disease, or infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare; or**

**B. An area which, by reason of the predominance of inadequate street layout, unsanitary or unsafe conditions; tax or special assessment delinquency exceeding fair value of the land, the existence of conditions which endanger**

the life or property by fire and other causes; or any combination of such factors and is a menace to the public health, safety, morals or welfare in its present condition and use.

2. Community development program. A program adopted by the municipal officers of the municipality for the provision of decent housing and suitable living environment and the expansion of economic opportunities, within such municipality pursuant to Title I of the Housing and Community Development Act of 1974.

3. Dangerous building. The term "dangerous building" shall mean:

A. A building or structure, or portion thereof, which is structurally unsafe, unstable or unsanitary; constitutes a hazard to the public health, safety, morals or welfare because of inadequate maintenance, dilapidation, obsolescence or abandonment or is otherwise dangerous to life or property; or

B. A building or structure, or portion thereof, which, by reason of dilapidation, deterioration, obsolescence or inadequate provision for ventilation, light, air, sanitation or open space; or high density of population and overcrowding; or the existence of any and all other conditions or combination of conditions endangering the life or property, is conducive to ill health, transmission of disease, infant mortality or juvenile delinquency and crime; and is detrimental to the public health, safety, morals or welfare.

4. Disposition. The sale or lease of the property to persons not necessarily the original owners, or the retention of such property by the municipality after acquisition or after acquisition and rehabilitation or demolition.

5. Owner. The term "owner" shall include any person, firm, association, partnership or corporation having an estate, interest or easement in the property to be acquired, or having a lien, charge, mortgage or encumbrance thereon which, upon the date the resolution of condemnation is adopted, is properly recorded in the registry of deeds for the county where such property is located.

6. Slum area. The term "slum area" shall mean a blighted area in an extreme state of deterioration and decay.

#### § 4853. Municipal powers

The municipal officers of a municipality may raise or appropriate money and may accept and appropriate state or federal grants to provide decent housing and a suitable living environment and to expand economic opportunities pursuant to a community development program.

1. Acquisition and rehabilitation in project areas. Pursuant to a duly adopted community development program, a municipality may, in designated project areas, exercise all appropriate and necessary powers with respect to all property in such project areas to provide for decent housing and a suitable living environment and to expand economic opportunities including but not limited to:

A. The acquisition by eminent domain in accordance with the procedures hereinafter set forth upon the declaration by resolution of condemnation of

the municipal officers of any and all vacant or undeveloped land, and of any or all developed land and structures, buildings and improvements existing thereon located in designated slum or blighted areas; for the purposes of the demolition and removal, or rehabilitation and repair, and the disposition and redevelopment of property so acquired;

B. The loaning or granting of money, or the guaranteeing of loans to encourage owners of property to voluntarily rehabilitate and repair such properties so that such properties may comply with all zoning, housing, building, plumbing, electrical and any and all other structural and constructional controls, regulations and standards adopted by the municipality, or to voluntarily demolish such properties;

C. The installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the objectives of the community development program.

2. Acquisition of vacant or undeveloped land outside of project areas. Pursuant to a duly adopted community development program, the municipal officers may declare by resolution of condemnation that the acquisition and development of vacant or undeveloped land not necessarily located in a designated project area, is essential to the proper clearance or redevelopment objectives of the community development program:

A. If the undeveloped or vacant land is to be developed for residential purposes, the municipal officers shall determine that a shortage of housing of sound standards and design which is decent, safe and sanitary exists in the municipality; that the conditions of blight in the general vicinity and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and the spread of disease and crime and constitute a menace to the public health, safety, morals or welfare; and that the acquisition of such land for residential uses is an integral part of and essential to the community development program; or

B. If the undeveloped or vacant land is to be developed for nonresidential uses, the municipal officers shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives, which acquisition may require the exercise of governmental action, in the form of a community development program, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivision, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of the municipality by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area.

3. Acquisition and rehabilitation of land and structures outside of project areas. Pursuant to a duly adopted community development program, the municipal officers may declare by resolution of condemnation that the conditions existing on specifically described property, not necessarily located in a desig-

nated project area, cause such structure, building or improvement located thereon to be a dangerous building as defined herein.

A. The municipal officers may then cause to be acquired by eminent domain, such specifically described property in accordance with the procedures hereinafter set forth and demolish and remove, or repair and rehabilitate, and dispose of such property and any and all structures, buildings and improvements existing thereon;

B. An order of the municipal officers requiring removal and demolition of structures, buildings or improvements pursuant to Title 17, section 2851, whether such order is existing prior to the enactment of this subchapter or not, shall be deemed a sufficient declaration by resolution as required by this subchapter to permit the exercise of the powers set forth in paragraph

A. Noting contained herein shall be deemed to abrogate, annul or interfere with the powers of the municipal officers pursuant to Title 17, section 2851;

C. In lieu of the acquisition by eminent domain authorized in paragraph A, the municipal officers may cause loans or grants of money to be made to the owner or owners for the demolition and removal or the repair and rehabilitation of such structures, buildings or improvements.

#### § 4854. Eminent Domain

To exercise the powers of eminent domain hereinabove set forth, the municipal officers shall act in accordance with the following procedures:

1. Filing of resolution of condemnation. The municipal officers shall cause to be filed with the municipal clerk, a copy of a resolution of condemnation. Such resolution shall specifically describe the property, or interest therein to be acquired, and its location by metes and bounds; shall specify the name or names of the owner or owners, and shall set forth the amount of damages determined by the municipal officers to be just compensation for the property or interest therein taken.

2. Service of resolution of condemnation. The municipal officers shall then serve upon the owner or owners, in accordance with the requirements for personal service set forth in the Maine Rules of Civil Procedure an attested copy of the resolution of condemnation, and upon one of the owners, a check to be endorsed by all such owners, in the amount of the damages determined. Title shall pass to the municipality upon service of the resolution of condemnation and check, or upon recordation in accordance with subsection 4, whichever occurs first. The municipal officers shall also cause a copy of the resolution of condemnation to be published in a newspaper of general circulation in the county where the property acquired is located, at least once a week for 3 consecutive weeks following adoption of such resolution of condemnation by the municipal officers.

3. Title to be in fee simple absolute. Unless specifically provided in the resolution of condemnation, title to property taken pursuant to a community development program shall be in fee simple absolute.

4. Notice. No taking of property or interest therein by a municipality shall be valid against the owners or abutting landowners, upon whom personal service in accordance with subsection 2 has not been made, unless there is recorded in the registry of deeds for the county where such property is located, either a deed or an attested copy of the resolution of condemnation stating the final action of the municipality with respect to it.

§ 4855. Damages; appeal

Any person aggrieved by the determination of damages awarded to owners of property or interest therein under this subchapter, may, within 60 days after the date title has passed to the municipality, appeal to the Superior Court in the county where such property is located. The court shall determine damages by verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest where such is due, and for costs in favor of the party entitled thereto.

Sec. 2. 30 MRSA § 5109, as enacted by PL 1967, c. 361, is repealed and the following enacted in place thereof:

§ 5109. Federal and state grants

A municipality may accept grants:

1. Federal. Municipalities may apply for, accept and appropriate federal grants for any purpose for which federal grants are made available to municipalities either directly or through the State.

2. State. Municipalities may apply for, accept and appropriate state grants for any purpose for which state grants are made available to municipalities either directly or through a state agency.

3. Real estate and personal property. The municipality may raise or appropriate money for purchasing real estate and personal property from the Federal Government.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

## STATEMENT OF FACT

The purpose of this bill is to clarify the powers of the municipalities to directly undertake activities pursuant to the Housing and Community Development Act of 1974.