

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 1086

H. P. 899

House of Representatives, March 18, 1975

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Lewin of Augusta.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT Concerning Disaster Relief under the Civil Emergency  
Preparedness Statutes.

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

37-A MRSA § 62-A is enacted to read:

§ 62-A. Disaster relief

1. Major disasters.

A. Whenever the President, at the request of the Governor, has declared a major disaster to exist in this State, the Governor is authorized:

(1) Upon his determination that financial assistance is essential to meet disaster related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, to accept a grant by the Federal Government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant; and

(2) To enter into an agreement with the Federal Government, or any officer or agency thereof, pledging the State to participate in the funding of the financial assistance authorized in subparagraph (1), in an amount not to exceed 25% thereof, and, if state funds are not otherwise available to the Governor, to accept an advance of the state's share from the Federal Government to be repaid when the State is able to do so.

B. Notwithstanding any other provision of law or regulation, the Governor is authorized to make financial grants to meet disaster related necessary expenses or serious needs of individuals or families adversely affected

by a major disaster which cannot otherwise adequately be met from other means or assistance, which shall not exceed \$5,000 in the aggregate to an individual or family in any single major disaster declared by the President.

C. The Governor shall make such regulations as are necessary for the carrying out of 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 state-wide boards to pass upon applications and procedures for appeals.

D. Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this section shall, upon conviction of each offense, be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both.

2. Temporary housing.

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 is authorized:

(1) To 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 to make such units available to any political subdivision of the State;

(2) To assist any political subdivision of this State, which is the locality for temporary housing for disaster victims, to acquire sites necessary for such temporary housing and to do all things required to prepare such site to receive and utilize temporary housing units, 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 becoming a copartner with the political subdivision for the execution and performance of any temporary housing project for disaster victims and for such purposes to pledge the credit of the State on such terms as he or she deems appropriate having due regard for current debt transactions of the State; and

(3) Under such regulations as he or she shall prescribe, to temporarily suspend or modify, for not to exceed 60 days, any public health, safety, zoning, transportation within or across the State or other requirement of law or regulation within this State, when by proclamation he or she deems such suspension or modification essential to provide temporary housing for disaster victims.

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 such sites to utilize the housing units.

C. The Governor is authorized to make rules and regulations necessary to carry out the purposes of this subsection.

D. Nothing contained in this section shall 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.

E. "Major disaster," "emergency" and "temporary housing," as used in this section shall have the same meaning as the terms are defined or used in the Disaster Relief Act of 1974 of the United States (P. L. 93-288, 88 Stat. 143).

3. Community disaster loans. Whenever, at the request of the Governor, the President has declared a major disaster to exist in this State, the Governor is authorized:

A. Upon his determination that a local government of the State will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the Federal Government, on behalf of the local government, for a loan; and to receive and disburse the proceeds of any approved loan to any applicant local government;

B. To determine the amount needed by any applicant local government to restore or resume its governmental functions, and to certify the same to the Federal Government, provided that no application amount shall exceed 25% of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs; and

C. To recommend to the Federal Government, based upon his 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 disaster related expenses of a municipal operation character.

4. Debris removal in major disasters.

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

(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, to clear or remove from publicly or privately-owned land or water, debris and wreckage which may threaten public health or safety, or public or private property; and

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

B. Conditions of execution of removal or clearance:

(1) Authority under this section shall not be exercised unless the affected local government, corporation, organization or individual shall first

present an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the State Government against any claim arising from such removal;

(2) Whenever the Governor provides for clearance of debris or wreckage pursuant to subparagraphs (1) or (2) of 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; and

(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.

C. The Governor is authorized to make rules and regulations to carry out this subsection.

#### STATEMENT OF FACT

(Subsection 1) Section 408 of the Disaster Relief Act of 1974 is entirely new. It authorizes a state to make grants to disaster-stricken persons to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster. The Governor of a state is designated by the law to administer the grant programs authorized by this section.

Seventy-five percent of the fund necessary to carry this program into effect is provided by the Federal Government. The remaining 25% is to be provided by the State. When a state is unable immediately to pay its share of the fund, the Federal Government is authorized to advance such sum as needed to the State which will repay the Federal Government "when such state is able to do so."

(Subsection 2) Temporary housing assistance for major disaster victims is the subject of Sec. 404(a) of the Disaster Relief Act of 1974, and provides in part:

"Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States."

Any number of large scale major disasters have demonstrated that one of the most severe, and most difficult to resolve, problems confronting both the States and local communities and volunteer agencies, is the one of rehousing families evicted as a consequence of a major disaster.

(Subsection 3) The Community Disaster Loans provision is intended to offer financial assistance to local units of government that suffer a disastrous loss of tax bases as the result of a major disaster. To be eligible for such

financial aid, the local government must demonstrate to the Governor its inability to operate efficiently and effectively without assistance. The State is required by the FDAA Regulations to administer such loans in the same fashion, for example, as it now does project applications under both P. L. 91-606 and P. L. 93-288.

Loans shall not exceed 25% of the annual operating budget of the local government for the fiscal year in which the major disaster occurs. No loan made under this section shall be for a period more than 3 years, unless otherwise approved by the Administrator. The local government must repay the loan but if the revenues collected by the local government during the period of 3 fiscal years are insufficient to meet the costs of operation, the loan shall be cancelled.

(Subsection 4) With the declaration of a disaster emergency by the Governor or the declaration of a major disaster or emergency by the President, the Governor is authorized to use any facilities available to order the removal of debris and wreckage which may threaten public health or safety, from publicly or privately-owned land or water. The Governor is also authorized to accept funds from the Federal Government for debris and wreckage removal from publicly or privately-owned land or water following the declaration of a major disaster by the President.

There is the condition, however, that the authority under this Act shall not be exercised unless the affected local area, corporation, organization or individual shall first obtain an unconditional authorization for such removal; and in the case of removal of debris or wreckage from private property, there must be agreement to indemnify the State Government against any claim arising from such removal.

Whenever the Governor provides for the removal of debris or wreckage as authorized by this Act, all employees of state agencies or individuals appointed by the State are authorized to enter upon private land or waters to perform such tasks.