

MAINE STATE LEGISLATURE

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Legislative Document

No. 1598

H. P. 1098

House of Representatives, May 22, 1957.

Reported by majority from Committee on Judiciary and printed under joint rules No. 10.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Amending the Maine Housing Authorities Act.

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

Sec. 1. R. S., c. 93, § 4, amended. Section 4 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby amended to read as follows:

Sec. 4. Appointment, qualifications, tenure and meetings of commissioners. Each authority shall have 5 commissioners appointed, in the case of a city, by the mayor with the advice and consent of the governing body of the city, and appointed, in the case of a town, by the selectmen; provided that no commissioner shall be appointed until the authority is authorized to function as provided in section 3. The commissioners who are first appointed pursuant to this chapter shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, and thereafter commissioners shall be appointed as aforesaid for a term of office of 5 years except that all vacancies shall be filled for the unexpired term, all such appointments to be made in the same manner as the original appointment.

Each authority shall elect a chairman and vice-chairman from among the commissioners. An authority may employ a secretary, who shall be executive director, and technical experts and such other officers, agents and employees as it may require, and shall determine their qualifications, duties and compensation. An authority may ~~require the chief law officer of the city or town to render it legal service without cost, or may~~ employ its own counsel and legal staff. It may delegate to its agents or employees such powers or duties as it may deem proper.

A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the authority and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an authority shall be vested in the commissioners thereof in office from time to time. Three commissioners of an authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case its by-laws shall require a larger number. Meetings of the commissioners of an authority may be held anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Appointments may be made of any persons as commissioners of the authority who reside within its boundaries or area, and who are otherwise eligible for such appointments under this chapter.'

Sec. 2. R. S., c. 93, § 5, repealed and replaced. Section 5 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby repealed and the following enacted in place thereof:

'Sec. 5. Interested commissioners, officers or employees. During his tenure and for one year thereafter, no commissioner, officer or employee of the authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project. If any such commissioner, officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, then, in any such event, the commissioner, officer or employee shall immediately disclose his interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority and the commissioner, officer or employee shall not participate in any action by the authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in notes or bonds of the authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency.'

Sec. 3. R. S., c. 93, § 7, sub-§ IV, repealed and replaced. Subsection IV of section 7 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby repealed and the following enacted in place thereof:

IV. To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection

with, a housing project or the occupants thereof; and, notwithstanding anything to the contrary contained in this chapter or in any other provision of law, to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project.'

Sec. 4. R. S., c. 93, § 9-A, additional. Chapter 93 of the Revised Statutes, as amended, is hereby further amended by adding thereto a new section to be numbered 9-A, to read as follows:

'Sec. 9-A. Dwellings for disaster victims and defense workers. Notwithstanding the provisions of this or any other act relating to rentals of, preferences or eligibility for admission to, or occupancy in housing projects, during the period when an authority determines that there is an acute need in its area of operation for housing to assure the availability of dwellings for persons engaged in national defense activities or for victims of a major disaster, an authority may undertake the development and administration of housing projects for the Federal Government, and dwellings in any housing project under the jurisdiction of the authority may be made available to persons engaged in national defense activities or to victims of a major disaster, as the case may be. An authority is authorized to contract with the Federal Government or the State or a state public body for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of the housing free of charge to needy disaster victims during any period covered by a determination of acute need by the authority as herein provided.'

Sec. 5. R. S., c. 93, § 17, amended. Section 17 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby amended to read as follows:

'Sec. 17. Aid from Federal Government. In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the Federal Government for or in aid of any project within its area of operation, to take over or lease or manage any project or undertaking constructed or owned by the Federal Government, and to those ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. In any contract with the Federal Government for annual contributions to the authority, the authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws, to convey to the Federal Government the project to which such contract relates, upon the occurrence of a substantial default, as defined in such contract, with respect to the covenants or conditions to which the authority is subject; such contract may further provide that in case of such conveyance, the Federal Government may complete, operate, manage, lease, convey or otherwise deal with the project in

accordance with the terms of such contract; provided that the contract requires that, as soon as practicable after the Federal Government is satisfied that all defaults ~~by reason of which it shall have acquired~~ **with respect to** the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal Government shall reconvey to the authority the project as then constituted. It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any project by such authority; provided, however, that no authority shall enter into any contract for loans, grants, contributions or other financial assistance with the Federal Government for any project unless or until the governing body of its city, after referendum duly held thereon, and a majority of the voters voting, **having voted in favor thereof**, or the annual meeting of its town, as the case may be, shall, by resolution duly adopted, have approved its entering into such contract prior to April 1, ~~1957~~ 1961. To accomplish this purpose an authority, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the Federal Government any conditions, which the Federal Government may attach to its financial aid of a project, not inconsistent with the purposes of this chapter.

Sec. 6. R. S., c. 93, § 19, amended. Section 19 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby amended to read as follows:

'Sec. 19. Housing bonds legal investments and security. The State and all public officers, municipal corporations, political subdivisions and public bodies, all banks, bankers, trust companies, savings banks, **commercial banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belong to them or within their control in any bonds or other obligations issued by a housing authority created by or pursuant to this chapter or issued by any public housing authority or agency in the United States, any of its territories, the District of Columbia, Puerto Rico, Guam or the Virgin Islands, when such bonds or other obligations are secured by a pledge of annual contributions or other financial assistance to be paid by the Federal Government, or when such bonds or other obligations are secured by an agreement between the United States Government or any agency thereof and the public housing authority or agency in which the United States Government or any agency thereof agrees to lend to the public housing authority or agency, prior to the maturity of the bonds or other obligations, moneys in an amount which, together with any other moneys irrevocably committed to the payment of interest on the bonds or other obligations, will suffice to pay the principal of the bonds or other obligations with interest to maturity, which moneys under the terms of the agreement are required to be used for that purpose, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this State; it being the purpose of this ~~chapter~~ section to authorize any of the foregoing to use any funds owned or controlled by them, including, but not limited to, sinking, insurance,**

investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations; provided, however, that nothing contained in this ~~chapter~~ **section** shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities. The provisions of this ~~chapter~~ **section** shall apply notwithstanding any restrictions on investments contained in other laws.'

Sec. 7. R. S., c. 93, § 20, sub-§ IX, amended. Subsection IX of section 20 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby amended to read as follows:

'IX. Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this chapter. **If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, including any agency or instrumentality of the United States of America, the provisions of such agreements shall inure to the benefit of and may be enforced by such public body or governmental agency.** Any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without public notice, advertisement or public bidding, notwithstanding any other laws to the contrary.'

Sec. 3. R. S., c. 93, § 22, amended. Section 22 of chapter 93 of the Revised Statutes, as enacted by chapter 441 of the public laws of 1949, is hereby amended to read as follows:

'Sec. 22. Definitions. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Area of operation" of an authority of a town shall include all the town for which it is created, and the area of operation of a housing authority of a city shall include the city and the area within ten miles outside the territorial boundaries thereof. The area of operation of the housing authority of a city shall not, however, include any area which lies within the territorial boundaries of any other city nor shall it include any portion of a town for which a housing authority has been organized, without the consent by resolution of the selectmen of the town or the governing body of the other city. No authority shall operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein ~~shall mean the area within the territorial boundaries of the city or town for which the authority is created.~~

"Authority" or "housing authority" shall mean any of the public corporations created or authorized to be created by this chapter.

"Bonds" shall mean any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to this chapter.

"Clerk" shall mean the clerk of the city or town or the officer charged with the duties customarily imposed on such clerk.

“Federal government” shall include the United States of America, the Public Housing Administrator or any other agency or instrumentality, corporate or otherwise, of the United States of America.

“Governing body” shall mean the city council or other legislative body charged with governing a city.

“Major disaster” shall mean any flood, drought, fire, hurricane, earthquake, storm or other catastrophe which, in the determination of the governing body, is of sufficient severity and magnitude to warrant the use of available resources of the Federal, State and local governments to alleviate the damage, hardship or suffering caused thereby.

“Mayor” shall mean the mayor of the city or if it has a manager, then the manager of the city, or if the city have no mayor or manager, the officer charged with the duties customarily imposed on the executive head thereof.

“Municipality” shall mean city or town as the case may be.

“Obligee of the authority” or “obligee” shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the authority property used in connection with a project, or any assignee or assignees of such lessor’s interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

“Persons engaged in national defense activities” shall mean persons in the armed forces of the United States; employees of the Department of Defense; and workers engaged or to be engaged in activities connected with national defense. The term also includes the families of the persons, employees, and workers who reside with them.

“Persons of low income” shall mean persons or families who lack the amount of income which is necessary, as determined by the authority undertaking a project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

“Project” or “housing project” shall mean any work or undertaking :

- I. To demolish, clear or remove buildings from any slum area ; or
- II. To provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income ; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes ; or
- III. To accomplish a combination of the foregoing.

The terms “project” or “housing project” also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith, **and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.**

"Selectmen" shall mean the board of selectmen of the town or, if the town have no selectmen, the officers charged with the duties customarily imposed on the board of selectmen thereof.

"State public body" shall mean any city, town, district or other political subdivision of the State.'

Sec. 9. R. S., c. 93, § 24, additional. Chapter 93 of the Revised Statutes, as amended, is hereby further amended by adding thereto a new section to be numbered 24, to read as follows:

'Sec. 24. Saving clause. If any clause, sentence or section of this chapter shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence or section of this chapter directly involved in the controversy in which said adjudication shall have taken place.'

Sec. 10. Ratification and validation. The creation and establishment of housing authorities pursuant to, or purporting to be pursuant to, the provisions of the Maine Housing Authorities Act, chapter 93 of the Revised Statutes as enacted by chapter 441 of public laws of 1949, together with all proceedings, acts and things undertaken, performed or done with reference thereto, including the appointment of commissioners, officers and employees, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or defect irregularity in such acts or proceedings. Said housing authorities are hereby declared to have been and to be legally constituted and to be bodies corporate and politic with all the powers, rights and duties set forth in said Maine Housing Authorities Act.

Sec. 11. Contracts validated. All contracts and any amendments thereto, agreements, obligations and undertakings of housing authorities heretofore entered into relating to financing or aiding in the planning, development, construction, maintenance or operation of any housing project or projects or to obtaining aid therefor from the Federal Government, including, without limiting the generality of the foregoing, loan and annual contributions, contracts and leases with the Federal Government, agreements with municipalities or other public bodies, including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by housing authorities or which are otherwise made a part of the contracts with such holders of notes or bonds, relating to cooperation, contributions, grants or other participation in aid of housing projects, payments, if any, in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction or operation of housing projects, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Sec. 12. Notes and bonds validated. All proceedings, acts and things heretofore undertaken, performed or done in or for the authorization, issuance, sale, execution and delivery of notes and bonds by housing authorities for the pur-

pose of financing or aiding in the undertaking of a housing project or projects and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.