

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

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1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

CHAPTER 389

AN ACT to Facilitate Municipalities in Undertaking Activities Pursuant to the Housing and Community Development Act of 1974.

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 and 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 and 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:

1. **Blighted area.** "Blighted area" shall mean:

A. An area in which there is a predominance of buildings or improvements which, by reason of dilapidation, deterioration, 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 life or property by fire and other causes; or any combination of such factors; is conducive to ill health, transmission of disease, 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, insanitary or unsafe conditions; tax or special assessment delinquency exceeding fair value of the land; the existence of conditions which endanger life or property by fire and other causes; or any combination of such factors; is a menace to the public health, safety, morals or welfare in its present condition and use.

2. **Community development program.** Community development program shall mean a program adopted by a municipality pursuant to this subchapter which shall have as its primary objective the development of a viable community by providing decent housing, a suitable living environment and an expansion of economic opportunity, principally for persons of low and moderate incomes. Such plan may include the following specific objectives:

A. The identification and elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community and principally to persons of low and moderate income;

B. The elimination of conditions which are detrimental to health, safety and public welfare through code enforcement, demolition, interim rehabilitation assistance and related activities;

C. The conservation and expansion of housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

D. The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which

are essential for sound community development and for the development of viable urban communities;

E. A more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational and other needed activity centers;

F. The reduction of the isolation of income groups within the community and surrounding geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods in order to attract persons of higher income; and

G. The restoration and preservation of properties of special value for historic, architectural or aesthetic reasons.

Such program shall conform to the municipality's comprehensive plan and to the requirements of Title 1 of the Housing and Development Act of 1974.

3. Disposition. "Disposition" shall include 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.

4. Legislative body of the municipality. "Legislative body of the municipality" shall mean the governing body of a city or any regular, special or other duly constituted meeting of a town.

5. Owner. "Owner" shall include any person, firm, association, partnership, trust or corporation having an estate, interest or easement in the property to be acquired, or having a lien, charge, mortgage or encumbrance thereon.

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

§ 4853. Municipal powers

1. Appropriations. 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 duly approved and adopted community development program.

2. Community development program. The municipal officers of a municipality may prepare or cause to be prepared a community development program. Prior to recommending a community development program to the legislative body of the municipality for approval, if such program has not been prepared by the planning board, the municipal officers shall submit the program to the municipal planning board for review and recommendations as to its conformity with the comprehensive plan and any applicable zoning ordinances. The planning board shall submit its written recommendations to the municipal officers within 45 days after receipt for review. Upon receipt of such recommendations, or if no such recommendations are received within said 45 days, then without such recommendations, the municipal officers shall, after 10 days' notice, hold public hearings on the proposed plan. After com-

pletion of such hearings, the municipal officers shall submit the program and any recommendations of the planning board to the legislative body of the municipality for their approval and adoption.

Any community development program approved by the legislative body of the municipality prior to July 1, 1975, shall be deemed approved and adopted under this section, notwithstanding any other provision of this subsection, if such program is in conformity with the comprehensive plan of the municipality.

3. Development powers. Pursuant to a duly approved and adopted community development program, the municipal officers of a municipality, except as provided herein, may exercise all appropriate and necessary powers to implement and complete the program, including but not limited to:

A. Acquisition by purchase or by eminent domain 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 or redevelopment of property so acquired;

B. Loaning or granting of money or the guaranteeing of loans to encourage owners of property to voluntarily rehabilitate and repair such properties to comply with all zoning, housing, building, plumbing, electrical and other structural and constructional ordinances, regulations and standards of the municipality or state or to voluntarily demolish such properties;

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

D. Contracting with, delegation of powers to or loaning or granting of money to any other political subdivision of the State, quasi-municipal corporation or agency of the State or its political subdivisions as may be required to implement and complete all or any portion of the community development program; and

E. The disposition of acquired property, provided that undeveloped or unrehabilitated property that was acquired by eminent domain shall not be sold, in whole or in part, by the municipality within 10 years of the date of acquisition without first being offered, for not less than 60 days, to the prior owner or owners or their heirs, at a price no more than the sum of the compensation and damages given in the eminent domain proceedings, any relocation payments or benefits and the costs of the municipality for any improvements; but such offer may be limited by requiring use of such property in accordance with the community development program. Provided, that where the property to be sold is one of 3 or more contiguous or abutting parcels or lots, that are to be redeveloped or rehabilitated as a unit, such property may be sold without first offering it to the prior owner, owners or their heirs. Any disposition of acquired property, other than to the prior owner, owners or their heirs shall require use of such property in accordance with the community development program.

§ 4854. Eminent domain

In exercising the powers of eminent domain the municipal officers shall act in accordance with the following procedures:

1. **Adoption of resolution of condemnation.** The municipal officers shall adopt 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; shall set forth the amount of damages determined by the municipal officers to be just compensation for the property or interest therein taken; and shall declare that the acquisition is pursuant to a duly adopted community development program. Such resolution shall be served on the owners either personally or by registered mail, and then shall be submitted to the legislative body of the municipality for approval or disapproval. The municipal legislative body shall not amend such resolution so as to decrease the amount of damages to be paid.

2. **Filing, bonds and notice.** Within 3 months after the approval of such resolution by the municipality:

A. The municipal officers shall cause to be filed in the registry of deeds of the county in which the property is located a copy of such resolution. Thereafter, the municipal officers shall cause to be filed in the Superior Court of the county in which such property is located, a copy of such resolution and a statement of the sum of money approved by the municipality as just compensation for such property taken;

B. Upon the filing of such resolution in said registry of deeds, and the filing in the Superior Court of the statement of estimated just compensation, the municipal officers shall cause to be deposited in said Superior Court bonds with surety satisfactory to the clerk of said court, in such amounts as the court shall determine to be ample and sufficient to satisfy the claims of all persons interested in such property, such bonds being deposited for the use of persons entitled thereto. The court may, in its discretion, take evidence on the question to determine the amounts of the bonds to be deposited, title to such property or interest therein;

C. After the copy of the resolution has been filed in said registry and the statement of just compensation has been filed in said Superior Court, the municipal officers shall cause notice of the taking of such property, or interest therein, to be served upon the owners of and persons having an estate in or interest in such property, by a sheriff or his deputies, by leaving a true and attested copy of such resolution and the statement of estimated just compensation with each such person personally or at their last known address in the State of Maine or with some person living therein. If any such person is a nonresident of the State of Maine, a true and attested copy of such resolution and statement shall be sent by registered mail, return receipt requested, to such person at his or her last known address. In addition, municipal officers shall cause a copy of such resolution together with the names of persons having an estate or interest in such property and the amount to be awarded to each of them, to be published in a newspaper of general circulation in the county, at least once a week for 3 consecutive weeks;

D. Upon the depositing of bonds in such Superior Court, and the giving of notice, title to such property or interest therein shall be vested in the municipality in fee simple absolute and the municipality may take possession of such property or interest therein.

3. **Unknown ownership.** In the event ownership or interest in such property cannot be ascertained after due and diligent search, an award shall be

made to persons unknown for the value of said property, and bonds for said amount running to the treasurer of the county for the use of such persons entitled thereto, shall be deposited in the Superior Court. If during a period of 2 years following the deposit of such bonds, no person has been able to prove ownership of such property or interest therein, the Superior Court shall order the bonds so deposited to be cancelled and delivered up to the municipality.

4. Agreement and cancellation of bonds. When any person entitled to the bonds shall agree with the municipality for the price of such property or interest therein so taken and the sum agreed upon is paid by the municipality, the court shall order the bond so deposited to be cancelled and delivered up to the municipality.

5. Complaint to Superior Court. Any owner of, or person entitled to, any estate or interest therein in any part of the property or interest therein so taken, who cannot agree with the municipality for the price of such property or interest therein so taken, in which he is interested, may within 3 months after personal notice of said taking, or if he has no personal notice, may within one year from the first publication of the copy of such resolution and description required in subsection 2, paragraph C, apply by complaint to the Superior Court in the county where such property is located, setting forth the taking of such property or interest therein, and praying for the assessment of damages by jury or by agreement of the parties by a referee or referees appointed by the court. Upon the filing of such complaint, the Superior Court shall cause 20 days' notice of the pendency thereof to be given to the municipality by serving the clerk of the municipality with a certified copy thereof and may proceed after such notice to obtain a trial thereof. Such trial shall determine all questions of fact relating to the value of such property or interest therein and the amount thereof and judgment shall be entered upon the verdict of such jury and execution shall be issued therefor against the money so deposited in said court.

6. Conflicting ownership. In case the municipal officers are in doubt as to conflicting ownership or interest, the municipality may file a complaint in the Superior Court for the county in which such property is located for a determination of the various rights and amounts due. In case 2 or more plaintiffs make claims to the real property or to any interest therein or to different interests in the same property, the Superior Court, upon motion, shall consolidate their several complaints for trial at the same time by the same jury and may frame all necessary issues for the trial thereof.

7. Appeal. An appeal from the decision of the Superior Court may be made in the manner provided for appeals in civil cases.

8. Guardian ad litem. If any real property or interest therein in which any minor or other person not capable in law to act in his or her own behalf is interested is taken by such municipality, the appropriate Superior Court, upon the filing therein of a complaint as set forth in subsection 5 by or on behalf of such minor or other person, may appoint a guardian ad litem for such minor or other person and such guardian may appear and be heard on behalf of such minor or other person; and such guardian may, with the advice and consent of said Superior Court and upon such terms as said Superior Court may prescribe, release to the municipality all claims for damages for the property of such minor or other person or for any interest therein.

Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of any such minor or other person, with the approval of the court of probate within the State having jurisdiction to authorize the sale of real property within this State, may, before the filing of any such complaint, agree with the municipality on the amount of damages suffered by such minor or other person by any taking of his property or of his interest in the property and may, upon receiving such amount, release to such municipality all claims for damages of such minor or other person for such taking.

9. Expedited proceedings and property devoted to public use. In any proceedings for assessment of compensation and damages for property or interest therein taken or to be taken by eminent domain by the municipality, the following provisions shall be applicable :

A. Application to expedite proceedings. At any time during the pendency of such action or proceedings, the municipality or an owner may apply to said court for an order directing the owner or the municipality, as the case may be, to show cause why further proceedings should not be expedited and said court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition;

B. Property devoted to a public use. If any property or interest therein is devoted to a public use, it may nevertheless be acquired and the taking shall be effective, provided that no property or interest therein belonging to any governmental agency shall be acquired without its consent and that no property or interest therein belonging to a public utility corporation may be acquired without the approval of the Public Utilities Commission or other officer or tribunal having regulatory power over such corporation. Any property or interest therein previously deeded to or acquired by the municipality may be included within such taking for the purpose of acquiring any outstanding interests in such property.

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.

Effective June 3, 1975