

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED
and
FIRST SPECIAL SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
1983

full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Effective date. This Act shall take effect on January 15, 1984.

Effective January 15, 1984.

CHAPTER 460

H.P. 1199 - L.D. 1593

AN ACT to Recodify the State Military Laws.

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

Sec. 1. 22 MRSA §3185, 4th ¶, as enacted by PL 1977, c. 714, §5, is amended to read:

In addition to other payments authorized by this section, the department shall, upon receipt of an accounting as authorized under Title 37-A, section 207-A 37-B, section 183, transfer to the Department of Defense and Veterans' Services a sum not to exceed \$10,000 from money appropriated pursuant to this section as reimbursement for costs of rendering emergency medical services, including, but not limited to, the costs of liability insurance.

Sec. 2. 37-A MRSA, as amended, is repealed.

Sec. 3. 37-B MRSA is enacted to read:

TITLE 37-B

DEPARTMENT OF DEFENSE AND VETERANS' SERVICES

CHAPTER 1

GENERAL PROVISIONS - ORGANIZATION

§1. Purpose

The Department of Defense and Veterans' Services, as previously established and referred to in this Title as the "department," shall coordinate and improve the discharge of the State Government's responsibility for military affairs, veterans' services and civil emergency preparedness matters.

§2. Composition

The department shall consist of the following bureaus:

1. Military Bureau. The Military Bureau;
2. Bureau of Civil Emergency Preparedness. The Bureau of Civil Emergency Preparedness; and
3. Bureau of Veterans' Services. The Bureau of Veterans' Services.

§3. Commissioner; Deputy Adjutant General

1. Adjutant General. The Adjutant General shall be the Commissioner of Defense and Veterans' Services and shall:

- A. Be appointed by and serve at the pleasure of the Governor;
- B. Not hold a grade above major general;
- C. Satisfy the requirements of section 107; and
- D. Have the following powers and duties.

(1) He shall administer the department subordinate only to the Governor.

(2) He shall establish methods of administration consistent with the law necessary for the efficient operation of the department.

(3) He may prepare a budget for the department.

(4) He may transfer personnel from one bureau to another within the department.

(5) He shall supervise the preparation of all state informational reports required by the federal military establishment.

(6) He shall keep an accurate account of expenses incurred and, in accordance with Title 5, sections 43 to 46, make a full report to the Governor as to the condition of the military forces, and as to all business transactions of the Military Bureau, including detailed statements of expenditures for military purposes.

(7) He shall be responsible for the custody, care and repair of all military prop-

erty belonging to or issued to the State for the military forces and shall dispose of military property belonging to the State which is unserviceable. He shall account for and deposit the proceeds from that disposal with the Treasurer of State who shall credit them to the General Fund.

(8) He may sell for cash to officers of the state military forces, for their official use, and to organizations of the state military forces, any military or naval property which is the property of the State. He shall, with his annual report, render to the Governor an accurate account of the sales and shall deposit the proceeds of the sales with the Treasurer of State who shall credit them to the General Fund.

(9) He shall represent the state military forces for the purpose of establishing the relationship between the federal military establishment and the various State military staff departments.

2. Deputy Adjutant General. The Deputy Adjutant General shall have all the powers, responsibilities and duties of the Adjutant General when the Adjutant General is absent or unable to act or, if the office is vacant, until the vacancy is filled by the Governor, as provided by law. The deputy shall not concurrently hold any other state office for compensation.

§4. Directors of bureaus

Each bureau of the department shall have a director. The Deputy Adjutant General shall be the Director of the Military Bureau. The Director of Veterans' Services and the Director of Civil Emergency Preparedness shall each be appointed by the Adjutant General and shall serve at the pleasure of the Adjutant General, neither may hold any other state office for compensation. The Director of Veterans' Services shall be a person who served on active duty in the United States Armed Forces during any federally recognized period of conflict as defined in section 504, subsection 4, paragraph A, subparagraph (3), and a person qualified by experience, training and a demonstrated interest in veterans' services.

CHAPTER 3

MILITARY BUREAU

SUBCHAPTER IORGANIZATION OF STATE MILITARY FORCES§101. Purpose

The Military Bureau shall have jurisdiction over and responsibility for the administration of the state military forces.

§102. Composition

1. State military forces. The state military forces shall consist of:

A. The Maine Army National Guard and the Maine Air National Guard, referred to in this Title as the "National Guard," when either or both are not in federal service; and

B. The militia, the naval militia and the Maine State Guard when and if organized by direction of the Governor pursuant to the authority set forth in subchapter 7.

§103. Commander in Chief

The Governor shall be the constitutional Commander in Chief of the military forces of the State, except for components thereof which may, at times, be in the service of the United States. It shall be the duty of the Governor as Commander in Chief to prescribe orders, rules and other administrative procedures necessary to maintain the standard of organization and armament for the state military forces required by the laws and regulations of the United States. Subject to regulations prescribed by the federal military establishment, the Governor shall establish administrative procedures necessary to insure that adequate numbers of officers, warrant officers and enlisted men are appointed, commissioned and enlisted into the state military forces.

§104. Governor's military staff

The staff of the Governor as Commander in Chief shall consist of:

1. Adjutant General; quartermaster general; paymaster general. The Adjutant General, who shall be ex officio chief of staff, a quartermaster general and a paymaster general;

2. Senior staff officers. The senior officer on duty with each of the staff sections organized under section 105; and

3. Other staff officers. Other staff officers appointed from time to time in accordance with section 110.

§105. Staff organization

The Governor may create, organize, abolish or reorganize staff sections which he deems necessary to provide for the National Guard and other state military forces, and appoint staff officers necessary to provide for the operation of the staff sections. Officers of these sections shall perform the duties required of them by law and those other duties not inconsistent with the laws of the State which correspond to the duties performed by officers in corresponding staff sections in the federal military establishment.

§106. Assistant adjutants general

The Adjutant General may, subject to the approval of the Governor, appoint an assistant adjutant general for the Maine Army National Guard and an assistant adjutant general for the Maine Air National Guard, each with the qualifications set forth in section 107, who may hold the grade of brigadier general and shall serve at the pleasure of the Adjutant General. The assistant adjutant general for the Maine Army National Guard shall be responsible for the general supervision of training and administration of the Maine Army National Guard and the assistant adjutant general for the Maine Air National Guard shall be responsible for the general supervision of training and administration of the Maine Air National Guard.

§107. Qualifications of Adjutant General and assistant adjutants general

A person appointed Adjutant General or assistant adjutant general shall:

1. Hold commission. Hold or have held a commission of at least field grade or the equivalent in the state military forces, the United States Armed Forces or a reserve component thereof;

2. Service. Have served at least 5 years in one or more of those forces or reserve components; and

3. Meet federal criteria for recognition. Meet the criteria for federal recognition in the grade to which appointed as prescribed by regulations governing the United States National Guard.

§108. Designation of Deputy Adjutant General

The assistant adjutant general for the Maine Army

National Guard shall serve as Deputy Adjutant General, and the deputy, regardless of rank, shall have the powers, responsibilities and duties of the Adjutant General in the event of the Adjutant General's absence or inability to act, or in case of a vacancy in the office of the Adjutant General, until the vacancy is filled by the Governor, as provided by law.

§109. Deputy Adjutant General as bureau director

The Deputy Adjutant General shall be the Director of the Military Bureau.

§110. Other staff; aides-de-camp

Additional military staff officers may be appointed by the Governor as necessary.

1. Staff qualifications. Except as required by federal military regulation, members of the staff of the Commander in Chief shall be:

A. Residents of the State;

B. Commissioned officers in the state military forces or reserve United States Armed Forces; and

C. On the active or retired list with a rank of at least captain, except no staff officer may be appointed from the retired list unless he has at least 5 years' service in the regular Army, Army reserve or Maine Army National Guard with the last year of service no more than 5 years prior to appointment.

2. Aides-de-camp; appointment; qualifications. The staff may also consist of not more than 11 aides-de-camp commissioned by the Governor to serve during his term. Honorably discharged officers or enlisted personnel who served in the Army, Air Force, Navy or Marine Corps during any war, who are not members of the state military forces, may be appointed as aides-de-camp with the rank of colonel. One may be a naval aide with the rank of captain and one may be an Air Force aide with the rank of colonel. Aides-de-camp may be detailed from the commissioned officers of the state military forces, but officers so detailed shall not be relieved from their regular duties, except when on duty with the Commander in Chief.

§111. Enlisted personnel

As used in this chapter, "enlisted man" or "enlisted men" means enlisted personnel, male or female.

SUBCHAPTER II

ADMINISTRATION

§141. Military Bureau accounts; Military Fund

All military accounts, unless otherwise specially provided by law, shall be approved by the person authorized to contract the accounts and transmitted to the Adjutant General for his examination and approval. They shall then be presented to the State Controller.

For the current expenses of the state military forces, there shall be appropriated biennially a sum known as the "Military Fund" which is necessary for the proper administration of the Military Bureau.

§142. Military personnel; appointment of officers; enlistment of enlisted personnel

Except as otherwise provided in this chapter, the qualifications for appointment of officers and enlistment of enlisted personnel and the procedures for promoting, transferring, discharging, equipping, uniforming and training personnel of the state military force shall be consistent with federal laws and regulations prescribed for the National Guard.

§143. Pay and allowances

Officers, warrant officers and enlisted personnel in the state military forces ordered by the Commander in Chief, or under his authority, for duty at encampment, maneuvers, field exercises, small arms competition or other special duties or for active state duty shall, unless otherwise stated in specific orders regarding that duty, receive for every day actually on duty the same pay and allowances as is payable to persons of the same branch, grade and classification in the federal military establishment.

§144. Civilian cooks

The Commander in Chief may authorize the employment of civilian cooks in organizations in which there are vacancies in enlisted cooks when those organizations are on duty under his orders or are called upon to aid the civil authorities. The Commander in Chief may authorize the employment and prescribe the number of cooks for all headquarters and organizations for which the enlistment of cooks is not authorized. Cooks during this employment shall be subject to the laws and regulations for the government of the National Guard and shall receive the same pay as enlisted cooks.

§145. Property and fiscal officer

The Governor shall, subject to the approval of the United States Secretary of the Army or the United States Secretary of the Air Force, designate a qualified commissioned officer of the Maine National Guard to be the United States property and fiscal officer.

1. Status; United States property and fiscal officer. The status of the United States property and fiscal officer shall be that of a National Guard commissioned officer of the Army or Air Force, as appropriate, on extended active duty and detailed with the United States Department of Defense, National Guard Bureau for administrative purposes.

2. Bond. The United States property and fiscal officer shall give a bond to the United States for the faithful performance of his duties and for the safekeeping and proper disposition of federal property and funds entrusted to his care. The amount of the bond shall be determined by the United States Secretary of the Army or the United States Secretary of the Air Force.

§146. Property purchase

1. Conflict of interest. No officer authorized to make purchases or sales of military property may be personally interested, directly or indirectly, in the purchase or sale of the property; nor may an officer take pay other than that allowed by law for negotiating or transacting the business of his office.

2. Inspection of property. All property purchased under the authority of this chapter shall be inspected by an officer designated by the Adjutant General. No payment may be made for the property until the inspecting officer certifies that the property is of the kind and quality specified in the contract of purchase.

3. Indebtedness contracted without authorization. No officer or enlisted man may contract or authorize the contracting of any indebtedness on behalf of the State, unless expressly authorized to do so. Any person in the military service who violates this subsection shall be dishonorably discharged and suffer such other punishment as a court-martial may direct.

§147. Retired officers and retired list

Officers shall be retired from the state military forces and placed on the retired list as follows.

1. Discharge. Any officer who accepts an appointment in the Army, Air Force, Navy or Marine Corps of the United States, or who resigns from service, shall receive an honorable discharge, provided that:

A. He is not under arrest or returned to a military court for any deficiency or delinquency;

B. He is not indebted to the State in any manner; and

C. His accounts for money and public property are correct.

2. Rights. Any person who has served as a commissioned officer in the state military forces for at least 9 years may, upon personal request, be placed upon the retired list. When placed upon the retired list, an officer shall be given the highest rank held by him and federally recognized during his term of service. If, at the time of his retirement, he has served as a commissioned officer in the state military forces or federal military service for 15 years or more, he may be retired with a rank one grade higher than the highest rank held by him during his service. Retired officers are entitled to wear the uniform of the rank with which they were retired. No commissioned officer in the state military forces may be removed from office without his consent, except by sentence of a court-martial or by a board of officers in a manner prescribed by law.

3. Active duty. Whenever the occasion requires, the Governor, with the officer's consent, may order to active duty any retired officer, warrant officer or enlisted man, who shall be entitled to pay and emoluments of his grade while performing the service.

§148. Discharge

An enlisted person discharged from the state military forces shall receive a discharge in the form and with the classification prescribed for the federal military establishment. Discharges may be given prior to the expiration of periods of enlistment under these regulations, not inconsistent with those established by the national military establishment for the government of the National Guard, as the Governor may prescribe.

§149. New organizations

When authorized by the national military establishment, new organizations may be raised on petition to the Governor, or by his order. When the minimum number of persons required by law has been enlisted

and notice thereof given to the Governor, he shall order an inspection to be made by an officer of the National Guard, and if it is found that the condition contemplated by law for federal recognition can be met by the new organization, the Governor shall appoint commissioned officers for the new unit and request an inspection to be made by an officer of the national military establishment with a view to federal recognition.

§150. Unauthorized volunteer service

No unit of the state military forces may perform any voluntary military service, unless authorized by express order of the Governor.

SUBCHAPTER III

ACTIVATION OF STATE MILITARY FORCES

§181. Authority to activate

State military forces may be ordered to active service as follows.

1. By order of the Governor. In case of, or imminent danger of, insurrection, invasion, tumult, riot, conspiracy to commit a felony, offer violence to persons or property or by force to break the laws of this State or the United States, or, in case of public disaster, the Governor may order members of the state military forces whom he deems appropriate to active service of the State or to the aid of any civil authority.

2. By order of a justice or sheriff. In case of, or imminent danger of, insurrection, invasion, tumult, riot, or conspiracy to commit a felony, offer violence to persons or property or by force to break the laws of this State or the United States, a Justice of the Supreme Judicial Court or of the Superior Court or a county sheriff may request in writing aid from a commanding officer in the state military forces. The commanding officer upon whom the request is made shall order out, in aid of the civil authorities, all or part of the military forces under his command, and shall immediately report to the Adjutant General and to his immediate commanding officer for further instructions. He shall receive only general directions from the civil authority requesting the aid and shall remain strictly responsible to his military superior for the manner in which the troops are used to accomplish the desired end.

3. Upon request of local officials. In the event of an emergency requiring immediate action, the

commanding officer may, upon written request of the mayor of a city, the selectmen of a town or the municipal officers of a municipality, order out, for the defense or protection of the community, the forces under his command, or any part thereof. He shall immediately report to the Adjutant General and to his immediate commanding officer for further instructions.

§182. Proclamation of state of insurrection

Whenever any portion of the state military forces is activated in aid of civilian authority and if, in the Governor's judgment, the maintenance of law and order will thereby be promoted, he may, by proclamation, declare the county or municipality receiving the assistance, or any specified portion or combination thereof, to be in a state of insurrection.

§183. Human health emergencies

Personnel and equipment of the state military force may be employed in the case of human health emergencies.

1. Activation of state military forces. In the event of illness or injury creating an emergency which requires specialized personnel or equipment of the state military forces to prevent human suffering or loss of life, the Governor, or his designee, may order into active service of the State or in aid of any civil authority the necessary personnel and equipment of the state military forces.

2. Immunity from civil liability. Any person ordered into active service of the State, for the purposes of this section, is immune from civil liability for damages to the same extent as any person who renders assistance pursuant to Title 14, section 164.

3. Accounting. At least 30 days before the end of each fiscal year, the Adjutant General shall prepare an accounting of all expenses incurred pursuant to this section since any prior accounting and shall present this accounting to the Commissioner of Human Services for payment pursuant to Title 22, section 3185.

4. Reimbursement. In addition to other payments authorized by Title 22, section 3185, the Department of Human Services shall, upon receipt of an annual accounting as authorized under this subsection, transfer to the Department of Defense and Veterans' Services a sum, not to exceed \$10,000, from money appropriated pursuant to Title 22, section 3185, as reimbursement for costs of rendering emergency health

service.

§184. Notice for duty

Notices for military duty shall be given as follows.

1. When given. Notices for state duty at encampments, maneuvers and field instruction shall be given at least 10 days prior to the duty. Notices for other duty may be given when prescribed by the officer issuing the order.

2. How given. Notices shall be given orally or by written notice delivered personally, sent by mail or left at the last and usual place of abode. Orders conspicuously posted during a regular meeting of the unit, not less than 4 days prior to the date fixed in the order, shall be sufficient.

3. Dates fixed by law. Where drill dates have been fixed by law, orders or regulations, no further notice is required.

§185. Rights and liabilities of military force members

1. Immunity from civil and criminal liability. No member of the state military forces may be liable civilly or criminally for any act done or caused, ordered or directed to be done by him while on active duty in the performance of his duty. If an action of any nature has been commenced in any court by any person against an officer or enlisted man of the state military forces for such an act, done or caused, ordered or directed to be done, all expenses of the defense of the action, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, shall be paid by the State out of the Military Fund. Where the action is civil, it shall be the duty of the Attorney General to defend that officer or enlisted man. Where the action is criminal, the Adjutant General shall designate a judge advocate of the National Guard or other authorized state military or naval force to conduct the defense of the member. If the services of a judge advocate are not available, the Adjutant General shall select some other competent attorney to conduct the defense. The judge advocate or other attorney selected shall receive a reasonable compensation for his professional services which shall be paid out of the Military Fund. In any civil action, the defendant may require the person instituting the action to file security for payment of costs that may be awarded the defendant, which costs, if paid out of the Military Fund, when received, shall be paid into

the State Treasury and credited to the Military Fund.

2. Exemption from arrest. Persons belonging to the state military forces are exempt from arrest as follows.

A. Every person belonging to the state military forces shall, in all cases except a crime punishable by a maximum term of imprisonment equal to or exceeding one year or breach of the peace, be privileged from arrest while going to, attending or returning from required military duty.

B. On the day of any military training, inspection, review or election, no officer or soldier required by law to attend the same may be arrested in a civil action or mesne process, or on a warrant for taxes; nor may he be arrested on the day of annual Thanksgiving; Patriots' Day, the 3rd Monday in April; Memorial Day, the last Monday in May; July 4th; Labor Day, the first Monday in September; Veterans' Day, November 11th; or Christmas.

3. Exemption from jury duty. Every member of the state military forces, while going to, attending or returning from required military duty, is exempt from jury duty. Production of a certificate from the claimant's commanding officer that he qualifies for the exemption is prima facie proof that he is entitled to the exemption.

§186. Injuries sustained in connection with military duty

1. Compensation as an employee of the State. A member of the state military forces shall receive compensation as a state employee according to the provisions of Title 39, if he:

A. Has been called to active state duty and is:

(1) On duty or assembled for duty;

(2) Participating by order of the Governor in the encampment, maneuvers or field instruction of any part of the national military establishment;

(3) Participating by order of the Governor in practice marches or camps of instruction;
or

(4) Assembled for regular or special drill or other duty under the command of a superior officer; and

B. Is incapacitated from performing his usual occupation by:

(1) An injury, disability or disease received, incurred or contracted as a result of that duty; or

(2) A wound, injury or disease incident to that duty received or contracted without willful negligence on his part while performing his lawfully ordered duties.

2. Average weekly wage; death benefits. The average weekly wage for purposes of calculation of compensation shall be the earning capacity of the injured in the occupation in which he is regularly engaged. In case of death, dependents shall be entitled to compensation as provided in Title 39, and any amendments thereto.

3. Setoff. For purposes of Title 39, section 62, federal pay and benefits received by the member as a result of a wound, injury or disease described in subsection 1 shall be considered to be derived from the employer and will constitute a setoff to compensation awarded as a result of this section.

4. Federal pay status. Any member of the state military forces who suffers a wound or injury or contracts a disease not the result of his own misconduct, while in attendance on order of the Governor at a camp of instruction authorized by the national military establishment shall receive the pay provided in section 143 while he remains in federal pay status in lieu of the compensation provided for in this section.

§187. Bounds and limits of camps

The bounds and limits of camps may be fixed and intrusion within those limits may be restricted as follows.

1. Fixing the limits. Every commanding officer on duty may fix necessary bounds and limits to his camp or parade. In doing so, he may not prevent passage along a through road. By order of the Governor, the commanding officer may, as described in subsection 2, restrict use or passage through an extended area not more than 1/2 mile around the camp. The owners of land within that surrounding security area and their agents shall not be prevented from using, occupying or improving their land in the same manner as they were accustomed to do at the time the camp was occupied.

2. Confinement of intruders. Any person who

intrudes within the fixed limits after being forbidden, or resists a sentinel attempting to put or keep him out of those limits, or disturbs, interrupts or otherwise hinders the passage of troops or the discharge of their duty, may be confined under guard for up to 14 hours at the discretion of the commanding officer.

3. Intoxicating beverages. The commanding officer of any camp or armory may prohibit the introduction or sale of any intoxicating beverage within the necessary or extended limits of the camp or armory.

§188. Closing of stores

Whenever any part of the state military forces is activated to state service pursuant to this subchapter, the commanding officer of those troops may order the closing of any place in the area under his control where intoxicating beverages, arms, ammunition or explosives are sold. He may also forbid the exchanging or transfer of those articles for the duration of his troops' assignment to that area whether or not a civil official has issued a comparable order.

SUBCHAPTER IV

SPECIAL PROVISIONS GOVERNING STATE MILITARY FORCES

OTHER THAN THE NATIONAL GUARD

§221. Other state military components

1. Organization. When necessary to provide for the adequate protection of the State, the Governor as Commander in Chief may organize as components of the state military forces an adequate number of Army and Navy units for the length of time which he directs. Those components shall consist of the militia, the naval militia and the Maine State Guard.

2. Duties. In the event of the organization of other forces described in subsection 1, those units may be ordered by the Governor to perform duties which he directs, including duties that the National Guard would be called to perform, consistent with this chapter and other applicable laws.

3. Maine Code of Military Justice. All persons serving in the militia, naval militia and Maine State Guard shall be subject to the Maine Code of Military Justice while in an active state duty status.

4. Applicability of provisions. The provisions of this chapter which apply to military forces gener-

ally apply to state military forces other than the National Guard, except as otherwise set forth in this subchapter. When any part of state military forces, other than the National Guard, in the service of the United States, is on duty or ordered to assemble for duty by the Governor, the Articles of War governing the Army and Air Force of the United States, the articles for the government of the United States Navy and regulations prescribed for the United States Army, Air Force and Navy, so far as consistent with this chapter and rules issued thereunder, shall be in force and shall be regarded as part of the chapter until those military forces are duly relieved from duty.

§222. Militia

The militia shall consist of all able-bodied citizens of the State, or able-bodied persons who have declared their intention to become citizens of the United States, who are at least 18 years of age and not more than 45 years of age, and who are enrolled pursuant to section 225, or who have been enlisted, appointed or commissioned.

§223. Naval militia

1. Composition. The naval militia of the State of Maine shall consist of such persons as may be enlisted, appointed or commissioned therein from the militia.

2. Administration. The Commander in Chief may organize the forces prescribed in subsection 1 as he deems proper. When in his judgment the efficiency of the naval militia will be increased thereby, or whenever public interest may demand it, he may alter, reorganize or disband any or all of the naval militia. He may, at any time, change the organization of the naval militia so as to conform to any organization, or system of drill or instruction adopted for the United States Navy, and increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men and to change their grades, titles and designations.

The system of administration, drill and instruction of the naval militia shall conform, as nearly as practicable, to that of the United States Navy.

§224. Maine State Guard

The Governor may organize and maintain within this State in time of peace or war or other emergency, the Maine State Guard, which organization and maintenance of the Maine State Guard shall be con-

sistent with federal regulations prescribing the organization, standard of training, instruction and discipline of state military forces.

1. Composition. When activated, the Maine State Guard shall be composed of those persons enlisted, appointed or commissioned from the militia and other able-bodied citizens of the State and such other able-bodied soldiers and sailors who have previously served honorably in the United States Armed Services or the National Guard. A person may not become a member of the Maine State Guard, if he is a member of the National Guard or any component of the United States Armed Forces, active or reserve.

2. Administration; rules. The Governor may from time to time prescribe rules not inconsistent with this section, for the enlistment, designation and location of units, and the organization, administration, equipment, maintenance, training and discipline of the Maine State Guard. The organization shall not conflict with the laws of the United States or of this State as applicable to the state military forces, generally. These rules, insofar as the Governor deems practicable and desirable, shall conform to existing laws, rules and regulations pertaining to the National Guard. The oath to be taken by officers and enlisted men in the Maine State Guard shall be substantially the same as that prescribed for officers and enlisted men of the National Guard. The words "Maine State Guard" shall be substituted where necessary. The term of service of officers or enlisted men in the Maine State Guard shall be the same as that prescribed for officers and enlisted men of the National Guard.

3. Officers; appointment; authority. The Governor, acting by and through the Adjutant General, shall appoint officers for such units and organizations of the Maine State Guard as he may establish in conformance with applicable federal regulations, and these officers shall, subject to removal by the Commander in Chief, exercise the same military authority over their several commands as officers of the National Guard.

4. Pay and allowances. The pay and allowances of members of the Maine State Guard when called to active state duty shall be the same as provided in section 143. When the Maine State Guard is organized for inspection and drill purposes only, that activity shall not be deemed active state duty and no pay may be allowed.

5. Requisitions. For the use of the Maine State Guard, the Governor may requisition from the United States Secretary of the Army arms, ammunition, cloth-

ing and equipment which the United States Secretary of the Army in his discretion, and under regulations determined by him, may issue and may make available to the Maine State Guard the facilities of state armories and their equipment and other state premises and property which are available.

6. Enlistment of civil groups. No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league or other combination of persons or civil group may be enlisted in the Maine State Guard as an organization or unit.

7. Federal service. Nothing in this subsection may be construed as authorizing the Maine State Guard or any part thereof, to be called, ordered or in any manner drafted as a unit into the military service of the United States. No person may, by reason of his enlistment or commission in the Maine State Guard, be exempted from military service under any law of the United States.

8. Disqualifications. No person may be commissioned or enlisted in the Maine State Guard who has been expelled or dishonorably discharged from any military or naval organization of this State, of another state or of the United States, or who has been convicted of a felony in any court of this State, of another state or of the United States.

§225. Enrollment other than National Guard

1. Citizen enrollment; penalty for noncompliance. Each citizen who is more than 18 years of age and less than 45 years of age, unless exempted by order of the Governor, who is a resident of this State, shall, whenever the Governor deems it necessary, be enrolled with the militia. Each citizen shall be enrolled in the municipality in which he resides by the assessor or assessors for that municipality according to rules which the Governor may prescribe.

Any person knowingly refusing to give required information concerning himself or another person who is required to be enrolled, or giving false information to an assessor making the enrollment, is for each act of concealment, refusal or falsification guilty of a Class E crime. Within 10 days, the assessor making the enrollment shall report all persons violating this subsection to the Adjutant General.

2. Exemptions. The Vice-President of the United States; judicial and executive officers of the government of the United States and of the several states and territories; persons in the military or

naval service of the United States; customhouse clerks; persons employed by the United States in the transmission of the mail, artificers and workmen employed in the armories, arsenals and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States, shall be exempt from militia duty without regard to age. All persons, who because of religious belief, claim exemption from militia service, if the conscientious holding of that belief by that person shall be established under regulations prescribed by the President, shall be exempted from militia service in a combatant capacity. A person exempted because of religious beliefs shall not be exempt from militia service in a capacity that the President declares to be noncombatant.

3. Burden of proof in exemption. Any person claiming exemption shall satisfy the assessor of his right to the exemption. In case of doubt, the burden of proof shall be upon the person claiming exemption. The assessor may require him to submit to examination under oath and may administer the oath.

4. Responsibilities of assessor and clerk; penalty for failure to perform. On the roll, opposite the name of each person who is exempt from duty under subsection 2, or who is serving in the active state or federal military forces, or who is unable by reason of physical disability to perform military duty, the assessor shall write the word "exempt" and state in each case the cause of the exemption. The assessor shall subscribe the list and make oath that the list is true to the best of his knowledge and belief, and shall immediately file the list with the clerk of the municipality. Within 10 days, the clerk shall make a certified statement of the total number enrolled, the number marked exempt with the reason for exemption and the number in active service. The clerk shall forward the statement to the Military Bureau. Any assessor neglecting or refusing faithfully to perform the enrolling duties required by law, making a false entry upon the rolls or committing any other related fraud and any clerk neglecting to make and forward the statement required is guilty of a Class E crime.

SUBCHAPTER V

UNIFORMS AND EQUIPMENT

§261. Officers provide own uniforms and equipment

All commissioned officers and warrant officers in the state military forces shall provide themselves with uniforms and equipment required by federal regu-

lation. The Adjutant General may purchase and issue as state property on memorandum receipt or sell for cash to these officers the necessary uniforms and equipment.

§262. Exemption from attachment and distress

The clothes, arms, military outfit and accoutrements furnished by or through the State to, or required of, a member of the state military forces are not subject to any civil action, distress, execution or sale for debt or payment of taxes.

§263. Repair of equipment

The Adjutant General shall make arrangements for the necessary repair, cleansing and renovation of all clothes, arms, military outfits or accoutrements of the state military forces. If the repair, cleansing or renovation is due to the negligence of a member, the cost shall be charged against pay due, or to become due, to the member or recovered in the same manner as a forfeiture under the Maine State Code of Military Justice.

§264. Inspection and condemnation

The Adjutant General shall designate an officer to inspect and condemn military property which has become unfit for use. No property may be sold until it has been inspected and condemned and the condemnation has been approved by the Adjutant General. The proceeds of sales of condemned material, stores, supplies or other public property shall be paid into the State Treasury and credited to the Military Fund.

§265. State equipment; obsolete ordnance issued to municipalities

All property furnished by the State shall remain and continue to be the property of the State to be used for military purposes only. When not in use it shall be kept in an armory or other designated place. Upon order of the Governor, the quartermaster general may issue to the municipal officers of any city or town field ordnance of obsolete pattern under rules prescribed by the Governor. Every officer receiving public property for military use shall be held responsible for the safekeeping and the return of the property when requested. The officer shall account for and return the property as prescribed by the Governor or other proper authority.

§266. Prohibited acts

1. Destruction of equipment. Any person who willfully destroys, injures or defaces any article of

military property belonging to the State or the United States, or uses it for an unauthorized purpose, or has or retains the property in violation of law or rule is guilty of a civil violation for which a forfeiture not to exceed \$50 may be adjudged. In case an officer or enlisted man of the state military forces through carelessness or inattention loses, destroys or causes the loss or destruction of government property which has been issued for his use, the Adjutant General shall retain, out of the pay, allowances or moneys due the officer or enlisted man for any military services an amount equal to the value of the property lost or destroyed. That portion of the money which is for state property shall be turned into the Treasurer of State and credited to the Military Fund. That portion which is for United States property shall be turned into the United States Treasury and credited to the State on its property returns.

2. Equipment not to be sold. Except as otherwise provided by law, the clothes, arms, military outfits and accoutrements furnished by or through the State to any member of the state military forces shall not be sold, bartered, exchanged, pledged, loan or given away. Any unauthorized person who has possession of clothes, arms, military outfits or accoutrements so furnished as a result of unlawful disposition, shall have no right, title or interest in them. Those items may be seized as contraband by a civil officer of the State, and shall be delivered to a commanding officer or other officer authorized to receive them, who shall make an immediate report to the Adjutant General. The possession of the clothes, arms, military outfits or accoutrements by any person not a member of the military forces of the State or of the United States shall be prima facie evidence of unauthorized sale, barter, exchange, pledge, loan or gift.

Any person who sells or offers for sale, barter, exchanges, pledges, loans or gives away, secretes or retains after demand made by any civil or military officer of the State, any clothes, arms, military outfits or accoutrements furnished by or through the State to a member of the state military forces, or who receives by purchase, barter, exchange, pledge, loan or gift, any such clothes, arms, military outfits or accoutrements, is guilty of a Class E crime.

3. Uniform forbidden to unauthorized persons. It is unlawful for any person not an officer or enlisted man in the federal or state military forces to wear the duly prescribed uniform of any military forces or any distinctive part of the uniform, or a uniform any part of which is similar to a

distinctive part of a prescribed uniform. This subsection shall not be construed to prevent authorized persons from wearing the uniforms. The term "distinctive part of the uniform" in this subsection shall be construed to mean such parts of the uniform as may be designated as "distinctive" by the regulations of the federal military establishment. Violation of this subsection is a Class E crime.

SUBCHAPTER VI

CONSTRUCTION OF MILITARY FACILITIES

§301. Acquisition of property for construction of military facilities

1. Duty of municipal officers. Municipal officers shall perform the following duties.

A. The municipal officers shall provide and maintain for each unit of the state military forces located within the limits of their municipality, armories and other necessary buildings, the suitability of which shall be determined by the Adjutant General.

B. The municipal officers shall provide target ranges for units of the state military forces located within the limits of their municipality, except where ranges are provided from the funds appropriated for that purpose by the Federal Government. The municipal officers shall maintain the target ranges in good condition regardless of the method by which they were obtained. The suitability of target ranges shall be determined by the senior officer in the ordnance department of the state military force and approved by the Adjutant General. The target ranges shall be open for the use of members of the state military forces at all times, subject to the approval of the Adjutant General.

C. The legislative body of a municipality may raise money for purchasing, leasing, constructing and maintaining, or may accept by, gift or otherwise, real estate and personal property to be used for armories, other necessary buildings and target ranges for units of the state military forces located in the municipality.

2. Gifts to the State. The Governor may accept, in the name of the State, donations of real estate and personal property to be used for military purposes by the state military forces upon such conditions as the donor may prescribe. The Governor may prescribe further rules pertaining to donated prop-

erty. The Adjutant General may approve for payment from the appropriation for armory rentals necessary sums for the maintenance and operation of the property.

3. Eminent domain. The Adjutant General may acquire real property by right of eminent domain in the manner prescribed by law for the taking of land for highway purposes, and both real and personal property by purchase, gift or otherwise, for the purpose of construction or maintenance of armories, airports, shipyards and other military facilities, including the building or improvement and maintenance of railroads or roads necessary for the more efficient use of these facilities for military purposes and the procuring of equipment and supplies for military purposes.

§302. Construction of armories

1. By the State. Whenever the Military Fund is sufficient, the Adjutant General may, with the approval of the Governor, erect armories and other necessary buildings upon land donated to the State for that purpose.

2. By municipalities. When a city or town constructs an armory or other necessary building for the use of the state military forces, the State shall reimburse the city or town for 1/2 of each construction debt installment as it becomes due where the following conditions are observed.

A. The city or town shall deposit with the Treasurer of State a recorded deed conveying to the State clear title to all the real estate involved.

B. The Adjutant General shall certify in writing to the Treasurer of State that an installment is due.

C. The state contribution shall not exceed a total of \$50,000 to each city or town.

D. Not more than 3 armory projects shall be erected biennially.

§303. Payment of state expenses

Payment of the state's share of expenses incurred as a result of this subchapter shall be made from the Military Fund by the Treasurer of State upon vouchers issued by the Adjutant General to the State Controller.

§304. Rent for use of armories

In accordance with applicable federal law and regulations and after consulting with the municipal officers, the Adjutant General shall fix a reasonable compensation, subject to the approval of the Governor, to be paid as rent to the municipality providing and maintaining the buildings. This compensation shall be paid by the State out of the appropriation for armory rental.

§305. Use of armories limited

The buildings shall be used exclusively for military purposes, unless otherwise authorized by rules adopted by the Military Bureau, or by special authority granted by the Adjutant General after written application by the municipal officers. The buildings may be jointly used by the National Guard and other state military forces or other reserve components of the United States Armed Forces.

§306. Tax exemption

All real estate and personal property owned or leased by the State, by any municipality, or by any organization of the state military forces and used for military purposes is exempt from all taxation during the period of that ownership or lease and use.

§307. Penalty for violation of this section

Any municipal officer who fails to take effective measures for providing and maintaining suitable armories, other necessary buildings and target ranges as prescribed by this section, or who uses the buildings without authority, or who abuses the authority granted, is guilty of a Class E crime. Any fine imposed by the authority of this section shall be paid into the State Treasury and credited to the General Fund.

SUBCHAPTER VIIPENALTIES§341. Prosecution of offenses

Unless otherwise provided, offenses described in this chapter except where committed by a person subject to the Maine Code of Military Justice or the United States Uniform Code of Military Justice, may be prosecuted by complaint or indictment before a court of competent criminal jurisdiction. All fines and forfeitures collected under this chapter and not

otherwise specifically provided for shall be paid into the State Treasury and credited to the General Fund.

§342. Prohibited acts; penalties

1. Failure of civil officers to perform duties. A civil officer named in this chapter, who neglects or refuses to obey the provisions of this chapter, is guilty of a Class E crime.

2. Other military organizations prohibited. No group of persons, other than federal or state military forces, may join together as a military organization or parade in public with firearms. No city or town shall raise or appropriate money toward supporting such an organization. Associations wholly composed of honorably discharged servicemen of the United States and the order known as the Sons of Veterans may parade in public with firearms with written authorization of the city or town officials in the municipality in which they wish to parade. Students in educational institutions where military science is taught, as a prescribed part of the course of instructions, may, with the consent of the Governor, drill and parade with firearms in public under the supervision of their military instructors.

Any person violating this subsection is guilty of a Class E crime.

3. Enlistment of minors into the military. Any person who knowingly enlists, or causes or induces, a person under the age of 18 years to enlist into the state military forces without written consent of his parent or guardian is guilty of a Class E crime.

4. Obstruction of the right-of-way. The commander of any part of the state military forces parading or performing any military duty in any street or highway may require any or all persons to yield the right-of-way to his troops, provided that the transport of the United States mail, the legitimate functions, progress and operations of police, ambulances, firefighters and other authorized emergency vehicles shall not be interfered with by the troops.

Anyone who hinders, delays or obstructs any portion of the state military forces when parading or performing their military duty, or who attempts to do so, is guilty of a Class E crime.

5. Employment; leave of absence. Any person who willfully deprives a member of the state military forces of his employment, prevents his employment, interferes with his employment rights or otherwise

obstructs him or his employer with respect to his occupation or business because of his membership in the state military forces, or who dissuades any person from enlisting in the state military forces by threat of injury to his occupation or business, is guilty of a Class E crime.

All officials and employees of the State who are members of the state military forces, or reserves of the United States Armed Forces, shall have a leave of absence from their respective duties, without loss of pay or time, when engaged in all annual training duty days authorized by the Governor or under federal laws and regulations.

6. Discrimination against members of the state military forces. Anyone who discriminates against state military personnel shall be punished as follows.

A. No association or corporation organized to promote the trade, occupation or business of its members may by a rule or act discriminate against any member of the state military forces with respect to his eligibility for membership in the association or corporation, nor his right to retain his membership. Whoever aids in enforcing a rule or action against a member of the state military forces, with intent to discriminate against him, is guilty of a Class E crime.

B. Whoever without good cause discriminates against any uniformed member of the state military forces or the United States Armed Forces with respect to the enjoyment of any public place of amusement, the use of any public conveyance, access to public lodging or the receipt of other services generally available to the public is guilty of a Class E crime.

7. Interference with members in performance of duties. Whoever intentionally molests, abuses or interferes with any member of the state military forces in the performance of his duty is guilty of a Class E crime.

8. Unauthorized use of military insignia. Anyone who uses military insignia, decorations, badges or buttons in an unauthorized way shall be punished as follows.

A. Whoever intentionally wears the badge, button or other insignia of the federal or state military forces or does so to obtain aid or assistance within the State, unless he is entitled to use or wear them under the regulations of the United States Armed Forces or rules issued by the

Adjutant General, is guilty of a Class E crime.

B. Whoever sells, exposes or offers for sale, pawn or pledge, buys or loans money on any military badge, button, decoration or other insignia issued under the regulations of the Adjutant General for the state military forces is guilty of a Class E crime.

SUBCHAPTER VIII

MISCELLANEOUS PROVISIONS

§381. Fresh pursuit

Except as provided in this section, no component of the state military forces, except the National Guard when called to federal service, may leave the State and no military organization of another state, unless acting under authority of the United States, may enter the State, except by permission of the Governor.

1. By state military forces. A component of the state military forces may, upon the order of the officer in immediate command, continue in fresh pursuit of insurrectionists, saboteurs or enemy forces into another state until those persons are apprehended or until the military or police forces of the other state or forces of the United States have had a reasonable opportunity to apprehend those persons, provided that the other state has given authority by law for that pursuit by forces of this State. Any person who is apprehended in another state by any element of the state military forces shall be surrendered without unnecessary delay to the military or police forces of that state or of the United States. That surrender shall not constitute a waiver by this State of its right to extradite or prosecute the person for a crime committed in this State.

2. By forces of other states. A component of the military forces of another state, which is in fresh pursuit of insurrectionists, saboteurs or enemy forces, may continue the pursuit into this State until the military or police forces of this State or the forces of the United States have had reasonable opportunity to apprehend these persons. The state military forces of the other state are authorized to detain persons apprehended while in fresh pursuit in this State. Any person who is detained in this State by military forces of the other state shall be surrendered without unnecessary delay to the military or police forces of this State to be dealt with according to law. This subsection shall not be construed to make unlawful any arrest in this State which would

otherwise be lawful.

§382. Registration of aliens during time of war

Whenever a state of war exists or is imminent between the United States and a foreign country, the Governor may by proclamation direct every citizen or subject of that foreign country within this State to personally appear within 24 hours after the proclamation or within 24 hours after his arrival in this State, whichever is later, before the public authorities named by the Governor in the proclamation. At that time the citizen or subject of the foreign country shall register his name, residence, business, length of stay and other information which the Governor may prescribe in the proclamation.

The person in control of each hotel, inn, boardinghouse, rooming house and private residence within the State shall within 24 hours after the proclamation notify the public authorities of the presence in their establishment of every citizen or subject of that foreign country, and shall each day notify the public authorities of the arrival and departure of those persons. Failure to comply with the requirements of the Governor's proclamation or to do or perform any of the acts provided in this section is a Class E crime.

§383. Awards, medals and prizes

1. Certificate of merit. The Governor may award a certificate of merit to members of the state military forces who have distinguished themselves by gallantry or by meritorious service.

2. Other awards. The Adjutant General may award other certificates, medals, citations or other appropriate recognition of service to members of the state military forces for distinguished or honorable service.

3. Rewards for marksmanship. The Adjutant General may annually offer a reward for proficiency in the use of small arms and light and heavy weapons:

4. The Adjutant General may adopt suitable rules for awarding medals and prizes.

§384. Flag to be carried

The flag of the State to be carried by the National Guard shall be the same as the flag described in Title 1, section 206, with addition of a scroll in red below the coat of arms of the State bearing the inscription, "Maine National Guard."

§385. National Guard group life insurance

The Adjutant General may enter into insurance agreements with insurance companies for group life insurance on behalf of each participating national guardsman called to state active duty and to pay from departmental funds the cost of each individual's premium for that insurance.

Any insurance agreement entered into under this authority shall be reviewed and approved by the Superintendent of Insurance before it becomes effective. All insurance policies shall be issued by an insurance company licensed by the Bureau of Insurance to do business in the State.

§386. National Guard Association

1. Commissioned officers. The commissioned officers of the National Guard may organize themselves into an association. The name of the association shall be the "National Guard Association of the State of Maine." The association may adopt and amend a constitution and bylaws, not repugnant to law, orders or regulations. The association may take and hold real and personal property necessary for the purposes of the association.

2. Enlisted personnel. The enlisted personnel of the National Guard may organize themselves into an association. The name of the association shall be the "Enlisted National Guard Association of the State of Maine." The association may adopt and amend a constitution and bylaws, not repugnant to law, orders or regulations. The association may take and hold real and personal property necessary for the purposes of the association.

CHAPTER 5

MAINE CODE OF MILITARY JUSTICE

§401. Title

This chapter may be cited as the "Maine Code of Military Justice."

§402. Definitions

As used in this Code, unless the context indicates otherwise, the following terms have the following meanings.

1. Accuser. "Accuser" means a person who:

A. Signs and swears to charges;

B. Directs that charges be signed and sworn in the name of another; or

C. Has an interest, other than an official interest, in the prosecution of the accused.

2. Active state service. "Active state service" means all military duty performed as a member of the state military forces by order of the Governor under this Title or performed under the United States Code, Title 32.

3. Code. "Code" means this chapter.

4. Commanding officer. "Commanding officer" means any commissioned officer vested with the authority for the direction, coordination and control of a military unit.

5. Enlisted person. "Enlisted person" means any person who is serving in an enlisted grade in any military force.

6. Military forces. "Military forces" means the state military forces, as defined in section 102, when called into active state service.

7. Military judge. "Military judge" means an official of a court-martial detailed in accordance with section 221.

8. Military unit. "Military unit" means any military element whose structure is prescribed by a competent authority, such as a table of organization and equipment.

9. Officer. "Officer" means a commissioned or warrant officer.

10. Superior officer. "Superior officer" means an officer superior in rank or command.

§403. Persons subject to the Code

1. Active member. All persons in the military forces who are not in the active service of the United States are subject to this Code.

2. Fraudulent discharge. All persons discharged from the military forces subsequently charged with having fraudulently obtained the discharge shall be subject to trial by court-martial on that charge and shall after apprehension be subject to this Code while in the custody of the military forces for the trial. Upon conviction on that charge, they shall be

subject to trial by court-martial for all offenses under this Code committed prior to the fraudulent discharge.

3. Deserters. Persons who have deserted from the military forces shall not be relieved from amenability to the jurisdiction of this Code by virtue of a separation from any subsequent period of service.

§404. Places where applicable

This Code applies in all places where personnel of military forces are present.

§405. State judge advocate

The Adjutant General shall appoint as state judge advocate one of the judge advocates from the National Guard.

§406. Apprehension

1. Meaning. Apprehension is the taking into custody of a person.

2. By military authority. Any person authorized by law or regulations governing the military forces to apprehend persons subject to this Code or to trial thereunder may do so upon reasonable belief that an offense under this Code has been committed and that the persons apprehended committed it.

3. By civil authority. Any civil officer having authority to apprehend offenders under the laws of this State may apprehend a deserter or a member of the military forces absent without leave and deliver him into the custody of the appropriate component of the military force.

§407. Arrest or confinement

1. Definitions. As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Arrest" is the restraint of a person by an order directing him to remain within certain specified limits and which is not imposed as a punishment for an offense.

B. "Confinement" is the physical restraint of a person.

2. Order. A person subject to this Code who is charged with an offense under this Code shall be ordered into arrest or confinement, as circumstances require.

A. An enlisted person may be ordered into arrest or confinement by any officer by an order, oral or written, delivered in person or through other persons subject to this Code. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted persons of his command or subject to his authority into arrest or confinement.

B. An officer or warrant officer may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject. The order may be oral or written and delivered in person or by another officer. The authority to order officers or warrant officers into arrest or confinement may not be delegated.

3. Not a limitation. Nothing in this section may be construed to limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until the proper authority may be notified.

§408. Designated jails

Confinement other than in a guard house, whether prior to, during or after trial by a military court, shall be executed in correctional centers designated by the Governor or by the Adjutant General for that purpose.

§409. Probable cause

A person shall not be ordered into arrest or confinement except for probable cause.

§410. Information on charges; speedy trial

When any person subject to this Code is arrested or confined prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

§411. Quelling of disorders

All officers, warrant officers and noncommissioned officers may quell all quarrels, frays and disorders among persons subject to this Code and apprehend persons subject to this Code who take part in those disorders.

§412. Receiving prisoners

When an officer of the military forces delivers a prisoner and furnishes a statement of the offense charged against that prisoner to a provost marshal,

commander of the guard, warden, keeper or officer of a city or county jail or other correctional center designated under section 408, that official shall commit the prisoner to his charge.

§413. Report of persons held

Every provost marshal, commander of the guard, warden, keeper or officer of a city or county jail or other correctional center designated under section 408 to whose charge a prisoner is committed shall, within 24 hours after such commitment or as soon as he is relieved from guard, report to his commanding officer the name of the prisoner, the offense charged against him and the name of the person who ordered or authorized commitment.

§414. Application of the United States Manual for Courts-Martial

Insofar as it is not inconsistent with this Code, the United States Manual for Courts-Martial, as established by executive order of the President of the United States, shall apply to the military forces.

§415. Nonjudicial punishment

1. Limitations. Under rules prescribed by the Governor, limitations may be placed on the kind and amount of punishment authorized by this section and on the categories of commanding officers and warrant officers exercising command authorized to impose that punishment. The Governor may also prescribe rules for the suspension of punishment authorized by this section. Punishment may not be imposed under this section if the person charged with an offense demands a trial by court-martial prior to imposition of punishment.

2. Disciplinary punishment. Subject to subsection 1, a commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

A. Upon officers of his command:

(1) Restriction to certain specified limits, with or without suspension from duty, for not more than 10 consecutive days; or

(2) If imposed by a general officer, arrest in quarters for not more than 14 consecutive days; forfeiture of not more than 1/2 of one

month's pay per month for 2 months; restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days; or detention of not more than 1/2 of one month's pay per month for 3 months; and

B. Upon other personnel of his command:

(1) Correctional custody for not more than 7 consecutive days;

(2) Forfeiture of not more than 7 days' pay;

(3) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(4) Extra duties, including fatigue or other duties, for not more than 10 consecutive days;

(5) Restriction to certain specified limits, with or without suspension from duty, for not more than 10 consecutive days;

(6) Detention of not more than 14 days' pay; or

(7) If imposed by an officer of the grade of major or above, correctional custody for not more than 14 consecutive days; forfeiture of not more than 1/2 of one month's pay per month for 2 months; reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than 2 pay grades; extra duties, including fatigue or other duties, for not more than 14 consecutive days; restrictions to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days; or detention of not more than 1/2 of one month's pay per month for 3 months.

Detention of pay shall be for a stated period but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No 2 or more of the punishments of arrest in quarters,

correctional custody, extra duties and restriction may be combined to run consecutively in the maximum amount imposed for each. Whenever any of those punishments are combined to run consecutively, there shall be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection, correctional custody is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties or hard labor. If practicable, correctional custody shall not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

3. By officer in charge. An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments, authorized under subsection 2, paragraph B as the Governor may specifically prescribe by regulation.

4. Suspend; remit; mitigate. The officer who imposes punishment authorized in subsection 2, or his successor in command, may at any time:

A. Suspend probationally, any part or amount of the unexecuted punishment;

B. Suspend probationally, a reduction in grade or forfeiture whether or not executed;

C. Remit all or part of any punishment whether or not executed and restore all rights, privileges and property;

D. Mitigate any part or amount of an unexecuted punishment; and

E. Mitigate reduction in grade to forfeiture or detention of pay.

When mitigating arrest in quarters or extra duties to restriction, the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment being mitigated.

5. Appeal. A person punished under this section may appeal, through the proper channels, to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in

the meantime be required to undergo the punishment adjudged. The superior authority to whom the appeal is referred may exercise the same powers with respect to the punishment imposed as may be exercised under subsection 4 by the officer who imposed the punishment. Before ruling, the authority who is to act on the appeal may refer the case to a judge advocate for consideration and advice when the appeal is from any punishment imposed under subsection 2. He shall refer the case to a judge advocate when the appeal is from a punishment of arrest in quarters for more than 7 days, correctional custody for more than 7 days, forfeiture of 7 days' pay, reduction of one or more pay grades from the 4th or a higher pay grade, extra duties for more than 10 days, restriction for more than 10 days or detention of more than 14 days' pay.

6. Serious crime. The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section. The fact that a disciplinary punishment has been enforced may be shown by the accused at trial, and shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

7. Records. The Governor may by rule prescribe the form of records to be kept of proceedings under this section and may prescribe that the records shall be in writing.

8. Days interpreted. Any punishment authorized by this section which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean consecutive active service days for pay purposes.

§416. Court-martial

A court-martial shall have jurisdiction to try persons subject to this Code for any offense defined and made punishable by this Code.

A court-martial shall consist of:

1. With panel. A military judge and a panel of not less than 3 members; or

2. Without panel. A military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves the request.

§417. Sentences

Except as limited by rules prescribed by the Governor a court-martial may adjudge any one or a combination of the following punishments:

1. Confinement. Confinement at hard labor for not more than 6 months;

2. Hard labor. Hard labor without confinement for not more than 3 months;

3. Forfeiture or detention of pay. Forfeiture or detention of pay not exceeding 2/3 of base pay entitlement per month for 6 months;

4. Dismissal. Dismissal;

5. Bad conduct discharge. Bad conduct discharge;

6. Dishonorable discharge. Dishonorable discharge;

7. Reprimand. Reprimand; or

8. Reduction to the ranks. Reduction of noncommissioned officers to the ranks.

§418. Jurisdiction

The jurisdiction of a court-martial is limited to trial of persons subject to this Code who are accused of military offenses described in this Code. Persons subject to this Code who are accused of offenses cognizable by the civil courts of this State or any other state where the military forces are present may, upon accusation of a civil offense, be surrendered promptly to civil authorities for disposition if the mission of the military force will not be compromised. If the person subject to this Code is accused of both a military offense under this Code and a civil offense by the civil authorities, he shall be released to the civil authorities if the crime for which he is accused by the civil authorities carries a penalty greater than the maximum penalty for the military offense provided by this Code.

§419. Convening a court-martial

The convening authority of a court-martial under this Code shall be the Governor or the Adjutant General.

§420. Composition of court-martial

1. Commissioned officer. A commissioned officer

is eligible to serve on any court-martial for the trial of a person who may lawfully be brought before the court for trial.

2. Warrant officer. A warrant officer is eligible to serve on a court-martial for the trial of a person, other than a commissioned officer, who may lawfully be brought before the court for trial.

3. Enlisted member. An enlisted member, who is not a member of the same unit as the accused, is eligible to serve on a court-martial for the trial of an enlisted member of an armed force who may lawfully be brought before the court for trial, but he shall serve as a member of a court only if the accused personally has requested in writing that enlisted members serve on it. That request shall occur before the conclusion of a session called by the military judge prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused. After the request, the accused may not be tried by a court-martial which does not include in its membership enlisted members in a number comprising at least 1/3 of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies. If enlisted members cannot be obtained, the court may be assembled and the trial held without them, but the assembling authority shall make a detailed written statement, in the record, stating why they could not be obtained.

In this subsection, the word "unit" means any regularly organized body as defined by the Governor, but in no case may it be a body larger than a company, squadron or corresponding body.

4. Rank or grade. Except where it cannot be avoided, a member of the military forces shall not be tried by a court-martial any member of which is junior to him in rank or grade. When convening a court-martial, the convening authority shall detail persons in the military forces who, in his opinion, are qualified for the duty by reason of age, education, training, experience, length of service and judicial temperament. No member of the military forces may serve as a member of a court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

§421. Military judge

1. Appointment. The authority convening a court-martial shall designate a military judge to preside over each case.

2. Qualifications. A military judge shall:

A. Possess the following military qualifications:

(1) Be a commissioned officer of the state military forces;

(2) Be a commissioned officer of the United States Armed Forces; or

(3) Be a retired officer of the United States Armed Forces; and

B. Possess the following other qualifications:

(1) Be a member of the bar of the Supreme Judicial Court; and

(2) Be certified as being qualified to serve as military judge by the state judge advocate.

3. Accuser or witness ineligible. No person is eligible to act as military judge in a case if he is the accuser or a witness for the prosecution or has acted as investigation officer or a counsel in the same case.

4. Duties. A commissioned officer who is certified to be qualified for duty as a military judge of a court-martial may perform those duties only when he is assigned and directly responsible to the Adjutant General. He may perform duties of a judicial or non-judicial nature other than those relating to his duty as a military judge of a court-martial when those duties are assigned to him by or with the approval of the state judge advocate. The military judge of a court-martial may not consult with the members of the court, except in the presence of the accused, trial counsel and defense counsel, nor may he vote with the members of the court.

§422. Counsel

1. Appointment. For each court-martial, the authority convening the court shall detail trial counsel and defense counsel, and such assistants as he considers appropriate. No person who has acted as investigating officer, military judge or court member in any case may act later as trial counsel, assistant trial counsel, or unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

2. Qualifications. Trial counsel or defense counsel detailed for a court-martial:

A. Shall be a judge advocate of the military forces, who is:

(1) A graduate of an accredited law school; and

(2) A member of:

(a) The bar of this State;

(b) The bar of a federal court; or

(c) The bar of the highest court of another state; and

B. Shall be certified as competent to perform those duties by the state judge advocate.

§423. Court reporters

Under rules prescribed by the Governor, the convening authority of a court-martial, shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like rules the convening authority of a court-martial, may detail or employ interpreters who shall interpret for the court.

§424. Members of court-martial

1. Absence. No member of a court-martial may be absent or excused after the court has been assembled for the trial of the accused, except for physical disability or as a result of a challenge or by order of the convening authority for good cause.

2. Vacancies. Whenever a court-martial other than a court-martial composed of a single military judge is reduced below 3 members, the trial may not proceed until the convening authority details sufficient new members to provide at least 3 members. The trial may proceed with the new members present after the recorded evidence previously introduced to the court has been read to the court in the presence of the military judge, the accused and counsel for both sides.

3. Military judge. If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of section 425, after the detail of a new military judge as if no evidence had

previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused and counsel for both sides.

§425. Pretrial procedures

Except as provided otherwise by this Code, the pretrial and trial procedures before a court-martial shall be in accordance with the procedures set forth in the United States Uniform Code of Military Justice, Title 10, United States Code, Chapter 47, for a special court-martial and the United States Manual for Courts-Martial.

§426. Limitation of charges

A person shall not be tried by court-martial or punished under section 415 if the offense with which he is charged was committed more than 2 years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction.

§427. Witnesses

1. Oaths. A military judge detailed under this Code may administer oaths.

2. Subpoena. A notary public or clerk of any District Court or Superior Court may issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books, papers and photographs relating to any questions in dispute before the court-martial or to any matters involved in a trial by court-martial.

3. Fees and mileage. Fees and mileage payments shall be paid to witnesses at the rate allowed to witnesses attending the District Courts. The fees and mileage payments shall be paid out of the Military Fund.

4. Violation. It is a Class E crime for a person not subject to this Code intentionally to fail to appear as a witness, refuse to qualify as a witness or refuse to produce evidence if that person:

A. Has been subpoenaed to give testimony or produce evidence; or

B. Has been paid fees and mileage as a witness.

5. Prosecution. The Attorney General may prosecute persons who violate this section.

§428. Execution of sentences

1. Imprisonment. Under instructions issued by the Governor, a sentence of imprisonment adjudged by a court-martial or other military tribunal, whether or not the sentence includes discharge or dismissal and whether or not the discharge or dismissal has been executed, may be carried into execution by imprisonment in any place designated as provided in section 408. Persons confined in a correctional center not under the control of one of the military forces are subject to the same discipline and treatment as persons committed by the courts of the State.

Any period of imprisonment included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to imprisonment is suspended or deferred, shall be excluded in computing the service of the term of imprisonment.

2. Forfeiture. Whenever a sentence includes both a forfeiture of pay and allowances and imprisonment and the imprisonment is not suspended or deferred, the forfeiture may apply only to pay or allowances becoming due on or after the date the sentence is approved by the convening authority.

3. Effective date. Sentences of courts-martial are effective on the date ordered executed, except another date may be required by subsection 1 or 2.

§429. Record of trial

After a trial by court-martial, the record shall be forwarded to the convening authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command or any officer exercising court-martial jurisdiction.

§430. State judge advocate's opinion

The convening authority shall refer the record of each court-martial to the state judge advocate, who shall submit written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

§431. Approval of findings and sentence

In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds cor-

rect in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

§432. Reconsideration

1. Return of record. If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

2. Errors. Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case may the record be returned:

A. For reconsideration of a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

B. For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this Code; or

C. For increasing the severity of the sentence, unless the sentence imposed is less than the mandatory sentence prescribed for the offense.

3. Rehearing. A rehearing shall be ordered as follows.

A. If the convening authority disapproves of the findings and sentence, he shall state the reasons for disapproval, and he may order a rehearing, except where there is lack of sufficient evidence in the record to support the findings. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

B. Each rehearing shall take place before a court-martial composed of members who were not members of the court-martial which first heard the case. Upon a rehearing, the accused may not be tried for any offense of which he was found not guilty by the first court-martial. No sentence more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered

upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

§433. Appeal

Upon petition of the accused, the Supreme Judicial Court shall review the record of any case approved by the convening authority.

The accused shall file the petition for review within 30 days of the time he is notified of the approval of his case by the convening authority.

On the same date that he files his petition for review in the Supreme Judicial Court, the accused shall file a notice of his intention to appeal with the convening authority. Within 30 days, the convening authority shall forward the complete transcript of the case to the Supreme Judicial Court.

§434. Judicial review

In any case reviewed by it, the Supreme Judicial Court may act with respect to any of the findings and sentence as approved by the convening authority. The Supreme Judicial Court shall take action only with respect to matters of law.

If the Supreme Judicial Court sets aside the findings and sentence, it may order a rehearing, except where the setting aside is based on lack of sufficient evidence in the record to support the findings. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

After it has acted on a case, the Supreme Judicial Court may direct the convening authority to take action in accordance with its decision. If the court has ordered a rehearing, but the convening authority finds a rehearing impracticable, the convening authority may dismiss the charges.

§435. Approval by the Governor

No court-martial sentence may be executed until approved by the Governor. The Governor shall approve the sentence or such part, amount or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence.

§436. New trial

At any time after approval by the convening authority of a court-martial sentence, the accused

may petition the state judge advocate for a new trial on the grounds of newly discovered evidence or fraud on the court. The state judge advocate shall refer the petition to the court-martial which last heard the case. The court-martial shall review the petition and the record and report to the convening authority its recommendation for granting or denying a new trial. If a new trial is recommended, the convening authority shall order a rehearing as provided in section 432, subsection 3. Upon filing of the petition for a new trial, any proceedings pending upon appeal or review of sentence shall be dismissed.

§437. Restoration of rights

All rights, privileges and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and that executed part is included in a sentence imposed upon the new trial or rehearing.

§438. Included offenses

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

§439. Attempts

An act done with specific intent to commit an offense under this Code, amounting to more than mere preparation and tending, even though failing, to effect its commission is an attempt to commit that offense.

Any person subject to this Code who attempts to commit any offense punishable by this Code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

Any person subject to this Code may be convicted of an attempt to commit an offense although it appears at the trial that the offense was consummated.

§440. Conspiracy

Any person subject to this Code who conspires with any other person to commit an offense under this Code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

§441. Desertion

1. Acts constituting. Any member of the military forces who commits any of the following acts is guilty of desertion:

A. Without authority, goes or remains absent from his unit, organization or place of duty with intent to remain away permanently;

B. Quits his unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service; or

C. Being a commissioned officer of the military forces who, after tender of his resignation and before notice of his acceptance, quits his post or proper duties without leave and with intent to remain away permanently.

2. Punishment. Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

§442. Absent without leave

Any member of the military forces who, without authority, fails to go to his appointed place of duty at the time prescribed, or goes from that place, or absents himself or remains absent from his unit, organization or place of duty at which he is required to be at the time prescribed, shall be punished as a court-martial may direct.

§443. Missing movement

Any person subject to this Code who through neglect or design misses the movement of a ship, aircraft or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

§444. Disrespect to officer

Any person subject to this Code who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct.

§445. Striking or disobeying an officer

Any person subject to this Code who strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while that officer is in the execution of his office or willfully disobeys a lawful command of his superior commissioned officer shall be punished as a court-martial may direct.

§446. Striking or disobeying a noncommissioned officer

Any warrant officer or enlisted member who strikes or assaults a warrant officer or noncommissioned officer while that officer is in the execution of his office, willfully disobeys the lawful order of a warrant officer or noncommissioned officer, or treats with contempt or is disrespectful in language or deportment toward a warrant officer or noncommissioned officer while that officer is in the execution of his office shall be punished as a court-martial may direct.

§447. Failure to obey order

Any person subject to this Code who violates or fails to obey any lawful general order or regulation, or having knowledge of any other lawful order issued by a member of the military forces, which it is his duty to obey, fails to obey the order, or is derelict in the performance of his duties, shall be punished as a court-martial may direct.

§448. Mutiny; sedition

1. Offense. Any person subject to this Code who:

A. With intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

B. With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence or other disturbance against that authority is guilty of sedition; or

C. Fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

2. Punishment. A person who is found guilty of attempted mutiny, mutiny, sedition or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

§449. Breaking arrest

Any person subject to this Code who resists apprehension or breaks arrest or who escapes from custody or confinement shall be punished as a court-martial may direct.

§450. Under influence of alcohol or drugs on duty

Any person subject to this Code who is found under the influence of alcoholic liquor or any drug while on duty shall be punished as a court-martial may direct.

§451. Sentinels

Any sentinel or lookout who is found sleeping upon his post or who leaves it before he is regularly relieved shall be punished as a court-martial may direct.

§452. Feigning illness to avoid duty

Any person subject to this Code who for the purpose of avoiding work, duty or service feigns illness, physical disablement, mental lapse or derangement or intentionally inflicts self-injury shall be punished as a court-martial may direct.

§453. False testimony

Any person subject to this Code who in a judicial proceeding or in a court of justice willfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

CHAPTER 7BUREAU OF VETERANS' SERVICES§501. Purpose

The Bureau of Veterans' Services, as previously established and referred to in this chapter as the "bureau," shall provide informational services, program assistance, memorial facilities and financial aid to veterans in the State and their dependents in order to insure that they receive all entitlements due under the law, are relieved to the extent possible of financial hardship, receive every opportunity for self-improvement through higher education and are afforded proper recognition for their service and sacrifice to the Nation.

§502. Director of Veterans' Services

The Director of Veterans' Services shall be appointed, as provided in section 4, and shall supervise the operation of the bureau.

§503. Powers and duties

The director has the following powers and duties.

1. Employment of personnel. The director may employ, subject to the Personnel Law, the personnel necessary to administer this chapter. All full-time permanent employees, except clerical employees, shall be persons who served on active duty in the United States Armed Forces during any federally recognized period of conflict, as defined in section 504, subsection 4, paragraph A, subparagraph (3).

2. Expenditures. The director may make expenditures approved by the Adjutant General which are necessary to carry out this chapter.

3. Agent. The director shall act, upon request, as the agent of any Maine resident who has a claim against the United States for any compensation, pension, insurance, loan or other benefit accruing as a result of any federal military service and, in cooperation with all public and private agencies, shall prosecute the claim without charge.

4. Record. The director shall maintain a permanent record of all Maine residents who served in the armed services after December 7, 1941.

5. Rules. The director may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt reasonable rules necessary to carry out this chapter, provided that regulations pertaining to the management of the Veterans' Memorial Cemetery are not rules within the meaning of Title 5, section 8002, subsection 9.

6. Other duties. The director shall perform other duties required by this chapter.

§504. Veterans' Memorial Cemetery

1. Land acquisition. The director may acquire by eminent domain in accordance with Title 35, chapter 263 and with approval of the Governor, or by purchase, gift or otherwise, real estate in fee simple, or any interest therein, for use as a Veterans' Memorial Cemetery. The land shall not exceed 200 acres in area and shall be located near the center of population of the State.

2. Superintendent. The director shall appoint a competent and trustworthy cemetery superintendent and shall arrange for personnel, material and equipment which is necessary for adequate maintenance of the cemetery. The superintendent shall be an honorably discharged war veteran or a war veteran currently a member of the armed services in nonactive or reserve status.

3. Monuments, buildings and markers. The director shall cause to be erected a suitable monument in the center of the cemetery.

A. The monument shall be suited to the topography of the land and shall display, on suitable flag poles, the national emblem and the state flag in accordance with the Flag Code.

B. The immediate area surrounding the monument shall be prepared and reserved as a suitable place for commemorating Memorial Day and other appropriate observances. The remaining grounds shall be laid out in a wheel-like pattern around the monument, expanding from the center as required. Suitable buildings may be erected for purposes which the director deems necessary.

C. All grave markers shall be flat-type granite, as furnished by the United States Department of the Army, Memorial Division, or flat-type granite facsimiles of a marker. All boxes used for burial shall be protected with permanent vaults or grave liners. Stones and vaults shall not be provided at state expense.

4. Burials. Burials in the cemetery shall be as follows.

A. As used in this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Eligible dependent" means the wife, husband, surviving spouse, unmarried minor child or unmarried adult child who became incapable of self-support before reaching 18 years of age on account of mental or physical defects.

(2) "Eligible veteran" means any person who served on active duty in the United States Armed Forces during any federally recognized period of conflict or was eligible for an Armed Forces Expeditionary Medal or campaign medal, and who:

(a) If discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through a program of general amnesty; and

(b) Was a resident of the State at the time of entering military service, his death or the death of an eligible dependent.

(3) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, March 31, 1920, if service was in Russia; World War II, December 7, 1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955; and the Viet Nam War, August 5, 1964 to May 7, 1975.

B. An eligible veteran may be buried in the cemetery without charge.

C. An eligible dependent of a veteran may be buried in the cemetery if, at the date of the dependent's death, the veteran would be eligible for burial. Dependents may be buried in graves adjacent to the veteran without charge, provided that:

(1) If the veteran dies first, the dependents specify in writing their intention to be so buried;

(2) If the dependent dies first, the veteran specifies in writing his intention to be buried in the cemetery; or

(3) Eligible family members of servicemen or veterans who are permanently buried overseas, buried at sea, missing in action and declared dead, or whose bodies are inaccessible for other reasons, may be buried in this cemetery, provided that the deceased serviceman or veteran was eligible for the burial at the time of his death.

D. The plots shall be reserved as necessary and a permanent record of all burials shall be kept.

E. Remains of eligible veterans previously buried in other locations may be reinterred in the cemetery upon request, provided that no cost other than that which would be incurred in an original burial is borne by the State.

F. This subsection shall not be construed to obligate the State beyond the furnishing of a grave site, opening and closing of the grave and maintenance of the grave and the cemetery thereafter in perpetuity.

§505. Aid to veterans and their dependents

1. Financial assistance. Financial assistance shall be granted as follows.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Child" means a person who is under the age of 18 years; over the age of 18 years but under the age of 20 years, regularly attending school; or over the age of 18 years and not attending school if, prior to reaching the age of 18 years, the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, and who is:

(a) A natural, legitimate child of a veteran;

(b) A foster child of a veteran;

(c) A legally adopted child of a veteran;

(d) A stepchild, if a member of a veteran's household either at the time of application or, in the event of the veteran's death, at the time of death, and who thereafter continues as a member of the household; or

(e) An illegitimate child, where a veteran has been judicially ordered or decreed to contribute to his support, or judicially decreed to be the putative father, or has acknowledged under oath and in writing that he is the father of the child.

(2) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, or to March 31, 1920, if service was in Russia; World War II, December 7, 1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955 and the Viet Nam War, August 5, 1964 to May 7, 1975.

(3) "Parent" means the father or mother of a veteran with whom the veteran lived during

his minority and for whom he would be legally responsible under the laws of this State; or the foster father or mother of the veteran.

(4) "Spouse" means the person currently legally married to a living veteran or the widow or widower of a deceased veteran who has not become the dependent of another person.

(5) "Veteran" means any person who served in the United States Armed Forces during any federally recognized period of conflict and was not dishonorably discharged; is disabled and a resident of the State; or is deceased and at time of death was a resident of the State. A veteran of the Viet Nam War must have served on active duty for a period of more than 90 days unless he died in service, or was discharged for a service-connected disability and any part of that active duty service occurred after August 4, 1964 and before May 7, 1975.

B. Application for financial assistance under this subsection shall be made to the bureau on forms provided by the bureau. Application may be made by the veteran or his dependent or a person recognized by the bureau as entitled to act on behalf of that person.

C. Eligibility for aid shall be determined as follows.

(1) Financial assistance shall be granted under this subsection to a veteran who is:

(a) Single;

(b) A resident of the State; and

(c) In dire need.

(2) Financial assistance shall be granted under this subsection to a spouse, a child, a parent or the parents of a veteran if that person is a resident and in need.

(3) Financial assistance under this subsection shall not be forfeited because of temporary absence from the State.

(4) The bureau shall give preference to applications where the death or disability of the veteran is due to military service or where the death or disability may be presumed to be due to military service.

D. The bureau shall require proof of the veteran's disability and its effect on his ability to provide for himself and his dependents.

E. The bureau shall determine the amount of financial assistance to be allowed under this subsection. In making that determination, the bureau shall give consideration to the following:

(1) The resources of the veteran and his dependents, including all other income and resources available to provide the dependents with a reasonable subsistence compatible with health and decency;

(2) Budgetary standards compiled by the bureau which reasonably reflect current costs of average standards of living; and

(3) Other necessary expenditures and conditions applicable in each case.

F. Financial assistance approved by the bureau and audited by the State Controller shall be paid by the Treasurer of State and may, in the discretion of the bureau, be paid to any person whom it may designate for the benefit of eligible dependents.

G. The bureau shall administer funds appropriated for the purpose of carrying out this subsection and shall, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt rules necessary to administer these funds.

H. Any person who is denied financial assistance under this subsection or who is not satisfied with the amount allotted to him by the bureau may appeal to the director. Each applicant for financial assistance shall be advised, at the time a decision on his application is made, of his right of appeal and of the method and time for making the appeal. The appellant shall be provided with reasonable notice and a fair hearing. At the hearing, the director or a member of the bureau authorized by him shall hear all evidence pertinent to the matter at issue and render a decision in the name of the director, within a reasonable time after the hearing. On request of the appellant, the director shall arrange for the hearing to be recorded in writing or on tape. A copy of the record shall be provided to the appellant at his request and expense. An appeal to the Superior Court may be had in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

1. An applicant eligible for financial assistance under this subsection who is also eligible for public assistance under any state law for which federal funds are available shall receive that public assistance. Financial assistance may be granted under this subsection pending receipt of the public assistance by eligible applicants.

2. Educational benefits. Educational benefits shall be granted as follows.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Child" means a child whose mother or father is or was a veteran and the child:

(a) Is at least 16 years of age;

(b) Has graduated from high school; and

(c) Is not over 21 years of age at the time of first entering a vocational school or post-secondary educational institution or, if over 21 years of age upon that entry, is not over 25 years of age and had been unable to enter before the age of 21 years due to service in the United States Armed Forces.

(2) "Spouse" means the person currently legally married to a living veteran or the widow or widower of a deceased veteran, not previously divorced from that veteran.

(3) "Veteran" means any person who served in the military or naval forces of the United States and entered the service from this State or resided in this State for 5 years immediately preceding application for aid and who:

(a) Is living and is determined to have a total permanent disability resulting from a service-connected disability as a result of service;

(b) Was killed in action;

(c) Died from a service-connected disability as a result of service;

(d) At the time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to the service-connected disability; or

(e) Is a member of the Armed Forces on active duty who has been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

B. The bureau shall pay to a spouse or child of a veteran a maximum of \$300 per year toward the cost of higher education during a period not exceeding 8 semesters of attendance or 6 consecutive academic years from the date of first entrance. The director may waive the limitation of 6 consecutive academic years where the recipient's education has been interrupted by severe medical disability or illness making continued attendance impossible. These educational benefits shall be used for the purpose of providing tuition, matriculation fees, board, room rent, books and supplies. Assistance under this subsection shall not be paid to any eligible person receiving benefits under paragraph C.

C. Spouses and children of veterans who are attending state-supported post-secondary vocational schools or institutions of collegiate grade shall be admitted free of tuition.

D. Appropriations for the administration of this subsection shall be determined from the recommendation of the director, who shall furnish estimates of the costs of carrying out this subsection in the same manner as for other appropriations allocated to the bureau.

3. Fraud. Whoever knowingly makes a false statement, oral or written, relating to a material fact in support of application for aid under this section is guilty of a violation of Title 17-A, section 353.

§506. Certain documents confidential

All claims and documents pertaining to claims for benefits under this chapter, whether pending or adjudicated, are confidential and privileged. No disclosure of those claims or documents may be made without the written consent of the claimant, except that disclosure may be made:

1. Claimant or representative. To the claimant personally, as to matters concerning himself alone, where, in the director's judgment, the disclosure would not be injurious to the claimant's physical or mental health, or to the claimant's duly appointed guardian or duly authorized representative holding a power or appointment approved by the director;

2. Veterans' organization. To the representative of a veterans' organization holding power of appointment from the claimant, provided that the organization is recognized by the United States Government and duly certified as such by the state department of the organization;

3. Courts. To any court of competent jurisdiction, when required by the process of the court, in an action pending under the laws of this State or the United States; and

4. Agencies engaged in health and welfare work. To any public or private agency engaged in health, welfare, rehabilitation or child placement work, from whom a veteran or his dependents have requested services, where, in the director's judgment, disclosure is essential to the proper evaluation of the request.

§507. Authority to receive federal funds

The bureau may accept federal funds under any federal law now in effect or hereafter enacted which makes these funds available to the states for:

1. Furnish information to veterans, beneficiaries and dependents. Furnishing information to veterans and their beneficiaries and dependents concerning their rights under laws of the United States and other states relating to veterans' benefits;

2. Provide assistance. Providing assistance in making application for benefits;

3. Reemployment and readjustment. Furnishing information and assistance respecting reemployment and other matters concerning the readjustment of veterans to civilian life; and

4. Federal requirements. Meeting such federal requirements regarding the administration of federal funds as may be conditions precedent to the receipt of these funds.

CHAPTER 9

MAINE VETERANS' SMALL BUSINESS LOAN ACT

§551. Title

This chapter may be cited as the "Maine Veterans' Small Business Loan Act."

§552. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Borrower. "Borrower" means a Maine veteran who is the original borrower under a note and his successors and assigns.

2. Cost of project. "Cost of project" means the cost or fair market value of lands, buildings, real estate improvements, fishing vessels, new machinery and equipment, including the installation thereof, stock, merchandise, used machinery and equipment, property rights, easements, franchises, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies and other expenses necessary to the development, construction, financing and placing in operation of an eligible project.

3. Eligible project. "Eligible project" means:

A. Any business or recreational facilities, any land, buildings, real estate improvements, machinery and equipment or merchandise and stock, including auxiliary real and personal property which is located in the State and used by a commercial, industrial, manufacturing, mining, fishing or agricultural enterprise;

B. Any sales and service enterprise;

C. The manufacturing, processing, assembling or preparing of raw materials for market; and

D. Research and development activities necessary for these undertakings.

4. Federal agency. "Federal agency" means the United States, the President of the United States and any department, corporation, agency or instrumentality established by the United States.

5. Lender. "Lender" means the original lender of funds and his successors and assigns approved by the authority and may include insurance companies, trust companies, banks, investment companies and savings banks, executors, trustees and other fiduciaries, including pension and retirement funds.

6. Loan payments. "Loan payments" means periodic payments called for by a note, including, but not limited to, payments covering interest, installments of principal, taxes and assessments, loan insurance premiums and hazard insurance premiums.

7. Maturity date. "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for in the note.

8. Mortgage. "Mortgage" means a first lien on an eligible project such as commonly given to secure advances on, or the unpaid purchase price of, real estate or personal property under the laws of the State together with the credit instruments, if any, secured thereby.

9. Resident. "Resident" means anyone who enters the United States Armed Forces from Maine or who has established a legal residence in Maine of at least 6 months' duration immediately prior to making application for a loan under this chapter and who has received certification as an eligible Maine resident veteran from the Bureau of Veterans' Services.

10. Veteran. "Veteran" means any person who served in the United States Armed Forces on active duty during World War I, World War II, the Korean Conflict or Viet Nam War who is not dishonorably discharged. A veteran of the Viet Nam War shall have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964 and before May 7, 1975, except if he was discharged for a service-connected disability after that date.

§553. Maine Veterans' Small Business Loan Authority Board

The Maine Veterans' Small Business Loan Authority Board, previously established as a body corporate and politic and called the "loan authority board" in this chapter, is a public instrumentality of the State. The exercise of the powers conferred in this chapter by the loan authority board shall be deemed to be the performance of essential governmental functions.

§554. Membership

The loan authority board shall consist of 10 members, including the Director of Veterans' Services; the Treasurer of State or his designee who shall be the Deputy Treasurer of State, ex officio, serving as a nonvoting member; and 8 members-at-large appointed by the Governor to serve 4-year terms. A vacancy in the office of an at-large member, other than by expiration, shall be filled for the unexpired term of the former member. At-large members may be removed by the Governor for cause. The loan authority board shall elect one of its members as chairman, one as vice-chairman, one as treasurer and shall employ a manager who shall be the secretary. The secretary and treasurer shall be bonded as the loan authority

board directs. Five members of the loan authority board constitute a quorum. The affirmative vote of 5 members present and voting is necessary for any action taken by the loan authority board. No vacancy in the membership of the loan authority board may impair the right of the quorum to exercise all rights and perform all duties of the loan authority board.

§555. Manager

1. Appointment; term; compensation. The manager shall be appointed by the Director of Veterans' Services with the approval of the loan authority board and his term of office shall be at the pleasure of the director. He shall receive compensation fixed by the director with the approval of the loan authority board.

2. Powers and duties. The manager shall be the chief administrative officer for the loan authority board and in that capacity shall supervise the administrative affairs and technical activities of the loan authority board in accordance with rules and policies adopted by the loan authority board. It is the duty of the manager to:

A. Attend all meetings of the loan authority board and to act as its secretary and keep minutes of all its proceedings;

B. Approve all accounts for salaries, per diems, allowable expenses of the loan authority board, or any employee or consultant thereof, and expenses incidental to the operation of the loan authority board;

C. Appoint, under the Personnel Law, employees required by the loan authority board and other assistants, agents or consultants necessary for carrying out the purposes of this chapter;

D. Report annually to the loan authority board and the Bureau of Veterans' Services on the operation of the loan authority board and any other subject which the loan authority board may request;

E. Make recommendations and reports to the loan authority board on the merits of proposed eligible projects; and

F. Perform other duties directed by the loan authority board to carry out the purposes of this chapter.

§556. Board powers

The loan authority board may:

1. Rules. Adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, for the regulation of its affairs and the conduct of its business;

2. Seal. Adopt an official seal and alter the seal at its pleasure;

3. Office. Maintain an office at such place or places within the State as it may designate;

4. Legal actions. Sue and be sued in its own name; plead and be impleaded. Service of process in any legal action shall be made by service upon the manager of the loan authority board, either in hand or by leaving a copy of the process at the office of the manager;

5. Agreements for projects. Enter into agreements with prospective borrowers and lenders for the purpose of planning, designing, constructing, acquiring, altering and financing eligible projects;

6. Use of property; contracts. Acquire, hold and dispose of real and personal property, and enter into all contracts, leases, agreements and arrangements necessary to the performance of its duties and the execution of its powers under this chapter;

7. Federal loans. Accept from a federal agency loans or grants for the planning or financing of any eligible project, and enter into agreements with that agency respecting those loans or grants; and

8. Other powers. Do all acts necessary to carry out the powers expressly granted in this chapter.

§557. Reimbursement

All members of the loan authority board shall be reimbursed for their actual expenses necessary for the performance of their duties. At-large members shall receive \$25 per day for each authorized meeting attended.

§558. Members prohibited from certain acts

No member of the loan authority board may participate in any decision involving insurance of payments on a loan if the member has any interest in or connection with any firm, partnership, corporation or association which intends to rent, lease or otherwise use the property securing the loan.

§559. Mortgages insured; credit of State pledged

The loan authority board may insure the payment of up to 80% of mortgage loans which are secured by eligible projects. The full faith and credit of the State is pledged, consistent with the Constitution of Maine, Article IX, Section 14-E.

§560. Veterans' Small Business Loan Insurance Fund

1. Fund created. There is established a Veterans' Small Business Loan Insurance Fund, referred to in this chapter as the "fund," which shall be used by the loan authority board as a nonlapsing, revolving fund for carrying out this chapter. This fund shall initially be \$200,000. To this sum shall be charged any and all expenses of the loan authority board in connection with its operation under this chapter, including interest and principal payments required by loan defaults, and to the sum shall be credited all income of the board, including loan insurance premiums and sale disposal, lease or rental proceeds.

2. Excess funds. Money in the fund, not needed currently to meet the obligations of the loan authority board to exercise its responsibilities as insurer as provided in this chapter, shall be deposited with the Treasurer of State to the credit of the fund or may be invested as provided for by statute.

§561. Additions to fund

When in the opinion of the loan authority board, the addition of money to the fund is required to meet obligations, the loan authority board shall, in writing, request the Governor to provide the money necessary for that purpose. The Governor shall transfer to this fund sufficient money for that purpose from the State Contingent Account or from the proceeds of bonds to be issued as provided in this chapter. If bonds are to be issued, the Governor shall order the Treasurer of State to issue bonds in the amount requested, provided that the amount of bonds outstanding at one time may not exceed the amount set in the Constitution of Maine, Article IX, Section 14-E, as it may from time to time be amended. The bonds may be issued to mature serially or made to run for such periods of time and at such rates of interest and on such terms and conditions as the Governor determines, but none of them shall run for a period longer than 20 years. The bonds issued shall be deemed a pledge of the faith and credit of the State.

§562. Insurance of loans

Upon application of the proposed lender, the loan

authority board may insure loan payments required by the first mortgage on any eligible project in accordance with terms and conditions which the loan authority board may prescribe by rule. The aggregate amount of principal obligations of all mortgages so insured outstanding at any one time shall not exceed \$4,000,000. To be eligible for insurance under this section, a loan shall:

1. Lender. Be one which is to be made and held by a lender approved by the loan authority board as responsible and able to service the loan properly;

2. Maturity; limit. Have a maturity satisfactory to the loan authority board;

3. Amortization. Contain complete amortization provisions satisfactory to the loan authority board requiring periodic payments by the mortgagor which shall include principal and interest payments, cost of local property taxes and assessments, land lease rents, if any, hazard insurance on the property and any loan insurance premiums required under section 564;

4. Other terms. Contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens and other matters as the loan authority board may prescribe by rule; and

5. Principal obligation; limit. Involve a principal obligation not to exceed \$30,000.

§563. Nonassignability of proceeds

No right, payment or proceeds of any loan made under this chapter may be subject to garnishment, attachment or execution of the claim of any creditor other than the lender, nor may any such right or payment be capable of assignment except under rules prescribed by the loan authority board.

§564. Loan insurance premiums

The loan authority board may fix loan insurance premiums for the insurance of loan payments under this chapter. Those premiums shall be computed as a percentage of the principal obligation of the loan outstanding at the beginning of each year and shall not be less than 1/2 of 1% each year nor more than 2% each year of the outstanding principal obligation. The premiums shall be payable by the lenders in the manner prescribed by rule of the loan authority board.

§565. Default

The loan authority board may take assignments of insured loans and other forms of security and may take title by foreclosure or conveyance to any eligible project when an insured loan thereon is clearly in default and when in the opinion of the loan authority board that acquisition is necessary to safeguard the loan insurance fund. The loan authority board may sell or, on a temporary basis, lease or rent an eligible project for a use other than that specified.

§566. Loans eligible for investment

Loans insured by the loan authority board shall be legal investments for insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries and pension or retirement funds.

§567. Loans with little or no collateral

The loan authority board may insure a loan to a borrower with less than full collateral, provided that the borrower is of good character and has a good personal credit record.

§568. Action to safeguard the fund

When a loan insured under this section is clearly in default, the loan authority board may assent to the extension of the time of payment of the insured loan, may extend the insurance thereon accordingly and may waive loan insurance premiums thereon, when in the opinion of the loan authority board this action is necessary to safeguard the fund.

§569. Accounts

The loan authority board shall keep proper records of accounts and shall make an annual report of its condition to the Superintendent of Banking.

§570. Expenses of the board

All expenses, including administrative, legal and actuarial, incurred by the loan authority board shall be paid by the loan authority board and shall be charged to the fund. All proceeds received by the loan authority board, from the disposal by sale or in some other manner of property it may have acquired in accordance with this section, shall be credited to the fund.

§571. Records confidential

A member, agent or employee of the loan authority board shall not divulge or disclose any information obtained from the records and files or by virtue of the person's office concerning the name of any lessee or tenant or information supplied by any lessee, tenant or lender in support of any application for loan insurance. Annual returns filed with the loan authority board by a lender, lessee or tenant are privileged and confidential.

CHAPTER 11

MAINE VETERANS' HOME

§601. Home established; purpose

As previously established, there shall be a home for veterans in Maine known as the "Maine Veterans' Home." The primary purpose of the home shall be to provide support and care for honorably discharged veterans who served in the United States Armed Forces during wartime, including the Korean Conflict and the Viet Nam War.

§602. Body corporate; powers

The Maine Veterans' Home is a body corporate. In addition to other powers granted by this chapter, the Maine Veterans' Home may:

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. Acquire property. Acquire, in the name of the home, real or personal property or any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise;

3. Hold or dispose of property. Hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage interest owned by it or in its control, custody or possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including threat of foreclosure;

4. Procure insurance. Procure insurance against any loss in connection with its property and other assets in amounts and from insurers which it deems desirable;

5. Receive bequests and donations. Receive, on behalf of the State, bequests and donations that may be made to improve the general comfort and welfare of the members of the home or for the betterment of the home;

6. Borrow funds. Borrow funds, not in excess of \$1,000,000 in the aggregate, make and issue bonds and negotiate notes and other evidences of indebtedness or obligations of the veterans' home for prudent and reasonable capital, operational and maintenance purposes. The home may secure payments of all or part of the obligations by pledge of part of the revenues or assets of the home which are available for pledge and which may be lawfully pledged or by mortgage of part, or all, of any property owned by the home. The home may do all lawful things necessary and incidental to those powers. The home may borrow money from the Federal Government and its agencies, from state agencies and from any other source. The home may borrow money from the State subject to approval by the Treasurer of State and the Governor. Bonds, notes and other evidences of indebtedness issued under this subsection shall not be deemed to constitute debts of the State, nor a pledge of the credit of the State, but shall be payable solely from the funds of the home; and

7. Other acts. Do other acts necessary or convenient to exercise the powers granted or reasonably implied in this section.

§603. Board of trustees

The administration of the home is vested in the Board of Trustees of the Maine Veterans' Home. The board shall consist of 9 members, one of whom shall be the Director of the Bureau of Veterans' Services, ex officio, who shall serve without term. The Governor shall appoint the remaining trustees, who shall be honorably discharged war veterans. One member shall be appointed from and shall represent each of the largest veterans' organizations, not exceeding 5, which are nationally chartered and have a department in Maine. The remaining members shall be appointed at large and shall serve staggered 3-year terms. In the event of a vacancy, the successor shall be appointed to complete the unexpired term. Each trustee shall continue to hold office until his successor is appointed and qualified.

§604. Conduct of board business

1. Fiscal year. The board shall adhere to the same fiscal year as the State.

2. Meetings. The board shall meet at least 6

times annually. Five members shall constitute a quorum.

3. Selection of officers. At its first annual meeting, which shall be held in July each year, the board shall elect a chairman and secretary for that fiscal year.

4. Special meetings. Special meetings may be called by agreement of a majority of the trustees.

5. Appointment of administrator. The board shall appoint an administrator in accordance with section 606.

6. Other funds. The board may apply for and receive any grants-in-aid for which the State or the home may be eligible.

7. Rules. The board shall adopt rules necessary to administer the home, to establish just charges for the maintenance of members and to oversee the operation of the home. In adopting rules, the board shall seek comments and information from home staff, members, members' families and other relevant sources, but the Maine Administrative Procedure Act provisions regarding rulemaking, Title 5, chapter 375, subchapter II, shall not apply.

§605. Compensation of the board

Trustees shall not be compensated for services rendered to the home, but necessary expenses incurred by a trustee in the performance of his official duties shall be paid by the State.

§606. Administrator

The administrator shall be an honorably discharged war veteran who shall administer the home in accordance with the rules, guidelines and general policies established by the board. He shall serve an indefinite term, but may be removed for cause by the board. His salary shall be set by the board. The administrator shall hire the necessary employees to operate the home and, whenever possible, shall give preference in hiring to war veterans. These employees shall not be deemed employees of the State.

§607. Admission

Veterans desiring admission to the home shall apply on forms prescribed by the administrator. Admission shall be granted by the administrator only to veterans who were residents of Maine at the time

of their entry into the United States Armed Forces or who are residents of Maine at the time of application, and to the spouses of eligible veterans, provided that suitable facilities are available. Admission shall be granted when provisions of the rules are met, when there is a vacancy and in order of application, unless otherwise provided in the rules.

§608. Charges

Each veteran admitted to the home shall pay to the State, as prescribed by the board, the share of the costs of his maintenance which he can afford.

§609. Custody of funds

The administrator shall deposit with the Treasurer of State funds paid by veterans for their maintenance, funds received from the United States Treasury and other funds given or granted to the home, other than state funds.

§610. Support and maintenance fund

All funds received by the Treasurer of State shall be held by him in a permanent fund to be used as required by the administrator for the support and maintenance of the home. A percentage of these funds approved by the board of trustees shall be placed in reserve for capital improvement expenditures. The board of trustees shall operate the home, when constructed, as a self-liquidating project until all the bonds issued as provided by this chapter are retired. Any funds received in excess of that necessary for the support and maintenance of the home, the capital reserve fund and funds necessary for retirement of any outstanding bonds or indebtedness as those payments become due shall lapse at the end of each fiscal year to the General Fund. The Department of Human Services shall not modify its principles of reimbursement for long-term care facilities to specifically exclude reimbursement for the depreciation of the assets created with federal or state grants.

§611. Reports

The board shall make an annual report to the Governor. This report shall contain an accounting for all money received and expended, statistics on members who resided in the home during the year, recommendations to the Governor and Legislature and such other matters as the board deems pertinent. The administrator, subject to approval of the board, shall compile a biennial budget on the forms and at the time required of other state agencies.

CHAPTER 13

BUREAU OF CIVIL EMERGENCY PREPAREDNESS

SUBCHAPTER I

ORGANIZATION

§701. Title; purpose

This chapter may be cited as the "Maine Civil Emergency Preparedness Act." It is the purpose of this chapter to:

1. Bureau. Establish the Bureau of Civil Emergency Preparedness;

2. Local organizations. Authorize the creation of local organizations for civil emergency preparedness in the political subdivisions of the State;

3. Emergency powers. Confer upon the Governor and the executive heads of governing bodies of the political subdivisions of the State certain emergency powers; and

4. Mutual aid. Provide for the rendering of mutual aid among the political subdivisions of the State and with other states for the accomplishment of civil emergency preparedness functions.

§702. Policy

It is declared to be the policy of the State that all emergency preparedness functions be coordinated to the maximum extent with the comparable functions of the Federal Government, including its various departments and agencies, of other states and localities, and of private agencies so that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster which may occur.

§703. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Civil emergency preparedness. "Civil emergency preparedness" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by

enemy attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, fire fighting, police, medical and health, emergency welfare, rescue, engineering, air raid warning and communications services; radiological, chemical and other special weapons defense; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of plant protection; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

2. Disaster. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

3. Local organization for civil emergency preparedness. "Local organization for civil emergency preparedness" means an organization created in accordance with this chapter by state, county or local authority to perform local civil emergency preparedness functions.

4. Political subdivision. "Political subdivision" means counties, cities, towns, villages, townships, districts, authorities and other public corporations and entities organized and existing under charter or general law.

§704. Director; duties

The Bureau of Civil Emergency Preparedness, as previously established and in this chapter called the "bureau," shall be under the supervision of the Director of Civil Emergency Preparedness, who in this chapter shall be called the "director."

The director may employ technical, clerical, stenographic, administrative and operative assistants and other personnel, subject to the Personnel Law, and make expenditures, with approval of the Adjutant General, which are necessary to carry out the purposes of this chapter.

The director, subject to the direction and control of the Adjutant General, shall be the executive head of the bureau and shall be responsible for

carrying out the program for civil emergency preparedness. He shall coordinate the activities of all organizations for civil emergency preparedness within the State, and shall maintain liaison with and cooperate with civil emergency preparedness and public safety agencies and organizations of other states, the Federal Government and foreign countries, and the political subdivisions thereof, and shall have additional authority, duties and responsibilities as may be prescribed by the Adjutant General.

§705. Rules; appeal from administrative action

The director shall adopt reasonable rules to carry out this chapter in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. Those rules shall not become effective until approved in writing by the Governor.

Any person aggrieved by rule or an act or order of the director enforcing a rule may appeal by filing a complaint in the Superior Court within 30 days. The court may affirm or reverse the rule, act or order of the director and the decision of the court shall be final.

SUBCHAPTER II

STATE CIVIL EMERGENCY PREPAREDNESS PROVISIONS

§741. Governor's powers

1. Control during emergencies. In the event of disaster beyond local control, the Governor may assume direct operational control over all or any part of the civil emergency preparedness and public safety functions with the State.

2. Cooperation. In performing his duties required by this chapter, the Governor shall, directly or through the Adjutant General, cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries and the political subdivisions thereof, and with private agencies in all matters pertaining to the civil emergency preparedness of the State and of the Nation.

3. Authority. In performing his duties required by this chapter, the Governor may:

A. Make, amend and rescind the necessary orders and rules to carry out this chapter within the limits of the authority conferred upon him and not inconsistent with the rules, regulations and directives of the President of the United States

or of any federal department or agency having specifically authorized civil emergency preparedness functions;

B. Prepare a comprehensive plan and program for the civil emergency preparedness of this State. That plan and program shall be integrated into and coordinated with the civil emergency preparedness plans of federal agencies and with the plans of other states and foreign countries, and their political subdivisions, to the fullest possible extent;

C. Coordinate the preparation of plans and programs for civil emergency preparedness by the political subdivisions of the State. These plans shall be integrated into and coordinated with the civil emergency preparedness plan and program of the State to the fullest possible extent;

D. In accordance with the plan and program for the civil emergency preparedness of the State, and consistent with the civil emergency preparedness plans, programs and directives of the Federal Government, procure supplies and equipment, institute training programs and public information programs and take all other preparatory steps, including the partial or full mobilization of civil emergency preparedness organizations in advance of actual disaster or catastrophe, insure the furnishing of adequately trained and equipped forces of civil emergency preparedness personnel in time of need;

E. Conduct studies and surveys and take inventories of the industries, resources and facilities of the State necessary to ascertain the state's civil emergency preparedness capabilities, and plan for their most efficient emergency use, including emergency economic controls to insure adequate production and equitable distribution of essential commodities;

F. Whenever a shortage of critical material supplies appears imminent in the State, establish emergency reserves of those products necessary to ensure the health, welfare and safety of the people of the State. To establish those reserves, the Governor may purchase quantities of those materials for resale on a cost plus expenses basis for priority end users within the State;

G. On behalf of the State, enter into mutual aid

arrangements with other states and foreign countries, and their political subdivisions, and coordinate mutual aid plans between political subdivisions of the State. If an arrangement is entered into with a jurisdiction that has enacted the Interstate Civil Defense and Disaster Compact, chapter 15, any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI of that compact. If the other jurisdiction or jurisdictions with which the Governor proposes to cooperate have not enacted that compact, he may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after approval by the Legislature; and

H. Delegate any authority vested in him under this chapter and provide for the subdelegation of that authority.

§742. Emergency proclamation

1. Disaster proclamation. Whenever disaster exists, or appears imminent, from attack, sabotage, riot or other hostile action, or by fire, flood, earthquake or other natural or man-made causes, the Governor shall, by proclamation, declare that fact and that an emergency exists in the State or any section of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor, if the office of Governor were vacant, shall make that proclamation. A copy of the proclamation shall be filed with the Secretary of State.

2. Energy emergency proclamation. Energy emergency proclamations shall be issued as follows.

A. When an actual or impending acute shortage in energy resources threatens the health, safety or welfare of the citizens of the State, the Governor shall, by proclamation, declare that fact and that an energy emergency exists in the State or in any section of the State. A copy of the proclamation shall be filed with the Secretary of State.

B. Upon the issuance of an energy emergency proclamation and after consulting with the Director of Energy Resources, the Governor may exercise all the powers granted in this chapter, except as specifically limited by paragraph C. The powers of the Governor shall include, without limitation, the authority to:

(1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;

(2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;

(3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;

(4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Maine Public Utilities Commission, regulate the generation, distribution and consumption of electricity;

(5) Establish temporary state and local boards and agencies;

(6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;

(7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations; and

(8) Regulate the storage, distribution and consumption of home heating oil.

C. In dealing with a declared energy emergency, the following powers granted by this chapter may not be invoked:

(1) The eminent domain powers granted in section 821; and

(2) The enforcement powers granted in sections 786 and 829, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation and approved by a majority of the membership of the Legislative Council. That order shall specify those emergency orders or rules which shall be enforceable pursuant to this paragraph and shall further specify the enforcement activities civil emergency preparedness organizations are to pursue. No enforcement action may be taken pursuant to this paragraph without publication of the order authorizing the action

in a manner reasonably calculated to give affected persons adequate notice of the order or rule to be enforced and the sanctions to be applied.

D. During a declared energy emergency, the following provisions relating to environmental rules apply.

(1) Except as provided in subparagraph (2), nothing contained in this subsection may be construed to authorize the Governor to suspend or to modify orders, rules, standards or classifications issued or enforced by the Department of Environmental Protection or the Maine Land Use Regulation Commission.

(2) When an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages. At an extraordinary session, the board is empowered, notwithstanding any other provision of law, to approve suspensions or waivers which it determines are necessary to relieve or avoid an energy shortage and will not result in environmental degradation of a permanent or enduring nature. In no event may any suspension or modification be granted which will result in a circumvention of Title 38, sections 481 to 488, 541 and 557. The waiver or suspension shall not remain in effect longer than 60 days or after the date on which the board renders a further order issued pursuant to the regular procedures specified in Title 38, whichever shall first occur.

E. The Superior Court of the county in which a person fails to obey an order or rule promulgated in accordance with this subsection shall have jurisdiction to issue a restraining order or injunction to enforce the order or rule. That proceeding shall be held in accordance with the Maine Rules of Civil Procedure, Rule 65.

F. In the event that an order or rule issued by the Governor, pursuant to the powers granted in paragraph B, are to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of the order or rule, convene the Legislature.

§743. Termination of emergency

Whenever the Governor is satisfied that an emergency no longer exists, he shall terminate the emergency proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof. That proclamation shall be published in newspapers of the State and posted in places which the Governor deems appropriate.

§744. Disaster relief

1. Financial assistance to individuals. Whenever the President has declared a major disaster to exist in this State, the Governor may:

A. Accept a grant of financial assistance from the Federal Government, subject to such terms and conditions as may be imposed upon the grant and upon his determination that financial assistance is essential to meet necessary expenses or serious needs of individuals or families caused by the disaster which cannot otherwise adequately be met;

B. Enter into an agreement with the Federal Government, or any officer or agency thereof, pledging the State to participate in up to 25% of the financial assistance authorized in this subsection. If state funds are not otherwise available, the Governor may accept an advance of the state's share from the Federal Government to be repaid when the State is able to do so; and

C. Notwithstanding any other provision of law or regulation, make financial grants to meet necessary expenses or serious needs of individuals or families caused by the disaster which cannot otherwise adequately be met. A grant to an individual or family shall not exceed \$5,000 in the aggregate for any single major disaster declared by the President.

2. Community disaster loans. Whenever the President has declared a major disaster to exist in the State, the Governor may:

A. Apply for a loan from the Federal Government on behalf of a unit of local government when he determines that the unit will suffer a substantial loss of tax and other revenues as a result of a major disaster and has demonstrated a need for financial assistance to perform its governmental functions;

B. Receive and disburse the proceeds of any

approved loan to an applicant local government;

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

D. 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 municipal expenses related to the disaster.

3. Temporary housing. Temporary housing may be provided as follows.

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 may:

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

(2) Assist any political subdivision of the State, in which is located temporary housing for disaster victims, acquire sites necessary for the temporary housing and do all things required to prepare the sites to accommodate temporary housing units. This may be accomplished 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 by becoming a partner with the political subdivision for the execution and performance of any temporary housing project for disaster victims. For those purposes, the Governor may pledge the credit of the State on terms which he deems appropriate, having due regard for current debt transactions of the State; and

(3) Suspend or modify a state health, safety, zoning, transportation or other requirement of law or rule when he deems sus-

pension or modification necessary to provide temporary housing for disaster victims. That suspension or modification shall be in accordance with rules adopted by the Governor and shall not exceed 60 days' duration.

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 those sites to accommodate the housing units.

4. Debris removal in major disasters. In major disasters, debris may be removed as follows.

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

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

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

B. The following conditions apply to the execution of removal or clearance.

(1) Authority under this subsection shall not be exercised unless the affected local government, corporation, organization or individual first presents an unconditional authorization for removal of the debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, also first agrees to indemnify the State Government against any claim arising from that removal.

(2) Whenever the Governor provides for clearance of debris or wreckage pursuant to

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.

(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 occurring during performance of those duties.

5. Terms. As used in this section, "major disaster," "emergency" and "temporary housing" have the same meaning as in the United States Disaster Relief Act of 1974, Public Law 93-288.

6. Rules. The Governor shall make rules necessary for carrying out 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 statewide boards to pass upon applications and procedures for appeals.

7. Authority not limited. Nothing contained in this section may 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.

8. Penalty. Any person who knowingly makes a misstatement of fact in connection with an application for financial assistance under this section is guilty of a Class D crime.

SUBCHAPTER III

LOCAL CIVIL EMERGENCY PREPAREDNESS PROGRAMS

§781. Municipal, county and regional agencies

1. Municipal or interjurisdictional agencies. Each municipality of the State shall be served by a municipal or interjurisdictional agency responsible for disaster preparedness and coordination of disaster response. The Governor, after public hearing, shall determine those municipalities which shall establish civil emergency preparedness agencies of their own and those which shall participate in and provide support for interjurisdictional civil emer-

gency preparedness agencies. Those determinations shall be based on a finding that efficient and effective disaster prevention, preparedness, response and recovery will be promoted by formation of an interjurisdictional agency. The following factors shall be considered:

A. Size and density of the affected population;

B. Financial ability of the separate municipalities to maintain independent disaster assistance agencies; and

C. Vulnerability of the area to disaster, as evidenced by past disasters, topographical features, drainage characteristics, disaster potential and existence of disaster-prone facilities and operations.

2. County or regional agencies. The Governor shall designate the counties or regions he deems necessary for the purposes of establishing county or regional civil emergency preparedness agencies. Each designated county or regional agency shall be responsible for coordination of the activities of municipal and interjurisdictional civil emergency preparedness agencies within the region or county and for civil emergency preparedness in the unorganized territories within its jurisdiction. A county or regional civil emergency preparedness agency shall receive support from the municipalities within its jurisdiction.

3. Structure of interjurisdictional and regional agencies. The director, with the approval of the Governor, shall determine the organizational structure of interjurisdictional and regional civil emergency preparedness agencies, including the manner in which the directors of those agencies shall be appointed by governing bodies of the municipalities involved.

4. List of agencies. The bureau shall publish and maintain a current list of municipal, interjurisdictional, county and regional civil emergency preparedness agencies established pursuant to this section.

§782. Agency directors

A director shall be appointed for each local civil preparedness agency. A director of a civil emergency preparedness agency shall not be at the same time an executive officer or member of the executive body of a political subdivision of the State. A director may be removed by the appointing authority for cause.

1. Municipal agency director; liaison officer. The governing body of a municipality shall appoint the director of the municipality's civil emergency preparedness agency. Each municipality which is not required to establish an agency of its own shall designate a liaison officer to the appropriate interjurisdictional agency to facilitate cooperation in the work of disaster prevention, preparedness, response and recovery.

2. County agency director. The county commissioners shall appoint the director of that county's civil emergency preparedness agency.

3. Interjurisdictional and regional agency directors. The director of an interjurisdictional or regional civil emergency preparedness agency shall be appointed in the manner prescribed by the director in accordance with section 781, subsection 3, and shall be approved by the director.

§783. Disaster emergency plan

Each municipal, interjurisdictional, county and regional civil emergency preparedness agency, in consultation with the bureau, shall prepare and keep a current disaster emergency plan for the area subject to its jurisdiction. That plan shall include without limitation:

1. Identification of disasters. Identification of disasters to which the jurisdiction is or may be vulnerable, specifically indicating the areas most likely to be affected;

2. Action to minimize damage. Identification of the procedures and operations which will be necessary to prevent or minimize injury and damage in the event those disasters occur;

3. Personnel, equipment and supplies. Identification of the personnel, equipment and supplies required to implement those procedures and operations and the means by which their timely availability will be assured;

4. Recommendations. Recommendations to appropriate public and private agencies of all preventive measures found reasonable in light of risk and cost; and

5. Other. Other elements required by bureau rule.

Each municipal, interjurisdictional, county and regional civil emergency preparedness agency, as part of the development of a disaster emergency plan for

the area subject to its jurisdiction, shall consult with hospitals within its jurisdiction to insure that the disaster plans developed by the agency and the hospitals are compatible.

§784. Mutual aid arrangements

The director of each local organization for civil emergency preparedness shall, in collaboration with other public and private agencies within the State, develop or cause to be developed mutual aid arrangements for reciprocal civil emergency preparedness aid and assistance in case of a disaster too great to be dealt with unassisted. These arrangements shall be consistent with the state civil emergency preparedness program, and in time of emergency it shall be the duty of each local organization for civil emergency preparedness to render assistance in accordance with the mutual aid arrangements. For this purpose, political subdivisions are authorized when geographical locations make mutual aid arrangements desirable to enter into mutual aid arrangements subject to the approval of the director.

§785. State Personnel Board services

Local civil emergency preparedness agencies organized pursuant to this subchapter may accept the services of the State Personnel Board and adopt board rules for the purpose of qualifying for federal funds. The State Personnel Board may enter into agreements with the civil emergency preparedness agencies for the purpose of furnishing merit system coverage for civil emergency preparedness employees or employees of other agencies and departments assigned full time to civil emergency preparedness duties. The State Personnel Board may charge for services rendered. The fee shall be consistent with the cost of coverage per state employee multiplied by the number of local, interjurisdictional, county or regional employees covered. Fees received by the board shall be credited to the General Fund.

§786. Enforcement

1. Law enforcement officers. Duly appointed law enforcement officers of local, state and sheriffs' organizations are empowered to enforce any of the provisions of this chapter or any rules promulgated thereunder in times of an emergency or during authorized alerts, including partial or full mobilization necessary to carry out section 742. Failure to comply with any just or reasonable order relative to enforcement from a duly appointed law enforcement officer is a Class E crime.

2. Arrest powers. Duly appointed law enforce-

ment officers of local, state and sheriffs' organizations shall have the power to arrest persons found in violation of any provision of this chapter or any rules promulgated in times of emergency to carry out section 742.

SUBCHAPTER IV

ADMINISTRATION

§821. Eminent domain

When the Governor has issued a proclamation in accordance with section 742 and, when in his judgment for the protection and welfare of the State and its inhabitants, the situation requires it as a matter of public necessity or convenience, he may take possession of any real or personal property located within the State for public uses in furtherance of this chapter.

1. Real property. If real estate is seized under this section, a declaration of the property seized, containing a full and complete description, shall be filed with the register of deeds for the county in which the seizure is located and a copy of that declaration shall be furnished to the owner.

2. Personal property. If personal property is seized under this section, there shall be entered, upon a docket containing a permanent record, a description of that personal property and its condition when seized, and there shall be furnished to the owner of the seized property a true copy of the docket recording.

3. Compensation. The Governor shall award reasonable compensation to the owners of the property which he takes under this section and for its use and for any injury thereto or destruction thereof caused by that use.

4. Appeal. The owner of property of which possession has been taken under this section and to whom no award has been made or who is dissatisfied with the amount awarded him as compensation may bring an action in the Superior Court in the county in which he lives or has a usual place of business or in the County of Kennebec to have the amount of damages to which he is entitled determined. The plaintiff may bring the action within 6 years after the date when possession of the property was taken under this section, except that, if the owner of the property is in the military service of the United States at any time during which he should otherwise have brought his action, he may bring the action within 6 years

after his discharge from that military service. The plaintiff and the State shall severally have the right to have the damages assessed by a jury.

5. Continuation of right of action. In the event the owner of property seized under this section dies, preventing him from bringing or continuing the action provided in subsection 4, his executor or administrator may bring or continue the action.

§822. Immunity

Neither the State nor any of its agencies or political subdivisions, including a voluntary and uncompensated grantor of a permit for the use of his premises as a civil emergency preparedness shelter, may, while engaged in any civil emergency preparedness activities and while complying with or attempting to comply with this chapter or any rule promulgated pursuant to this chapter, be liable for the death of or injury to any person, or damage to property, as a result of those activities. This section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, under the Workers' Compensation Act, under any pension law or under any act of Congress.

§823. Compensation for injuries received in line of duty

All members of the civil emergency preparedness forces shall be deemed to be employees of the State while on, or training for, civil emergency preparedness duty. They shall have all the rights given to state employees under the Workers' Compensation Act. All claims shall be filed, prosecuted and determined in accordance with the procedure set forth in the Workers' Compensation Act.

1. Average weekly wage. In computing the average weekly wage of any claimant under this section, the average weekly wage shall be taken to be the earning capacity of the injured person in the occupation in which he is regularly engaged.

2. Setoff. Any sums payable under any act of Congress or other federal program as compensation for death, disability or injury of civil emergency preparedness workers shall be considered with the determination and settlement of any claim brought under this section. When payments received from the Federal Government are less than an injured member would have been entitled to receive under this section, he shall be entitled to receive all the benefits to which he would have been entitled under this

section, less the benefits actually received from the Federal Government.

§824. Appropriations

1. General Fund. The Governor may whenever an emergency has been declared, as provided in section 742, transfer to the bureau money from the General Fund of the State, including unexpended appropriation balances of any state department or agency, allotted or otherwise. The Governor may expend that money for the purpose of carrying out this chapter.

2. For local civil emergency preparedness expenses. Each political subdivision may make appropriations for the payment of expenses of its local organization for civil emergency preparedness in the same manner as for its other ordinary expenses. In making those appropriations, the political subdivision shall specify the amounts and purposes for which the money appropriated may be used by the local organizations.

§825. Acceptance of aid

Whenever the Federal Government or any of its agencies or officers or any person, firm or corporation offers to the State or to any of its political subdivisions services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil emergency preparedness, the State, acting through the Governor, or the political subdivision, acting through its executive officer or governing body, may accept that offer. Upon acceptance, the Governor of the State or the executive officer or governing body of the political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive those services, equipment, supplies, materials or funds on behalf of the State or the political subdivision subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

§826. Transfer of equipment

Subject to the approval of the Governor, the director may convey equipment, supplies, materials or funds by sale, lease or grant to any political subdivision of the State for civil emergency preparedness purposes. The conveyance shall be subject to the terms of the offer and any rules or regulations of the State. Those rules and regulations are not rules within the meaning of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9.

§827. Aid in emergency; penalty

Upon the issuance of a proclamation as provided in section 742, the Governor may utilize any available property and enlist the aid of any person to assist in the effort to control, put out or end the disaster, catastrophe or emergency or aid in the caring for the safety of persons. Any person who refuses to render the aid requested without reasonable cause is guilty of a Class E crime. The State is liable for damage to any property utilized under this chapter.

§828. Right-of-way; violation

Personnel and equipment required to respond to emergency calls under this chapter shall have the right-of-way over all public ways and roads and the Governor is granted the right to close or restrict traffic on all roads in any area. Whoever fails to give the right-of-way to personnel, vehicles and equipment required to respond to emergency calls under this chapter, or whoever enters upon roads which have been closed to traffic under this chapter, is guilty of a Class E crime.

§829. Enforcement

It shall be the duty of every agency for civil emergency preparedness established pursuant to this chapter and of the officers to execute and enforce orders and rules adopted by the Governor under authority of this chapter. Each civil emergency preparedness agency shall have available for inspection at its office all orders and rules made by the Governor or issued under his authority.

§830. Violations

Every officer of a political subdivision of the State with administrative responsibilities under this chapter who intentionally violates any of the provisions of this chapter commits a civil violation for which a forfeiture of \$20 may be adjudged.

§831. Utilization of existing services and facilities

In carrying out this chapter, the Governor and the executive officers or governing bodies of the political subdivisions of the State shall utilize the services and facilities of existing departments, offices and agencies of the State and all the political subdivisions thereof to the maximum extent practicable. The officers and personnel of all departments, offices and agencies shall cooperate

with and extend their services and facilities to the Governor and to the civil emergency preparedness organizations of the State upon request.

§832. Political activity prohibited

No civil emergency preparedness organization established under the authority of this chapter may participate in any form of political activity, nor may it be employed directly or indirectly for political purpose.

§833. Civil emergency preparedness personnel

No person may be employed or associated in any capacity in any civil emergency preparedness organization established under this chapter who advocates or has advocated a change in the constitutional form of the Federal Government or of this State or the overthrow of the Federal Government by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for civil emergency preparedness shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this State, which oath shall be substantially as follows.

"I,....., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Maine, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office which I am about to enter."

§834. Inconsistent laws suspended

Except as otherwise provided, all existing laws, rules and regulations inconsistent with this chapter or of any order or rule issued under the authority of this chapter shall be suspended during the period of time and to the extent that the inconsistency exists.

CHAPTER 15

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

§901. Purpose--Article I

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster arising from natural or man-made causes,

including enemy invasion, sabotage, subversive acts and direct attack by bombs, shellfire and atomic, radiological, chemical or bacteriological means and other weapons. The prompt, full and effective utilization of the resources of this and other states, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people in the event of enemy action or other emergency or disaster. These and other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the agencies responsible for civil emergency preparedness in the states that are parties to this compact. The directors of civil emergency preparedness agencies of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

§902. Standards; rules--Article II

It shall be the duty of each party state to formulate civil emergency preparedness plans and programs for application within that state. There shall be frequent consultation between the representatives of the states and with officials of the United States Government. The free exchange of information and plans, including inventories of any materials and equipment available for civil emergency preparedness shall be pursued. In carrying out civil emergency preparedness plans and programs, the party states shall so far as possible provide and follow uniform standards, practices and rules, including:

1. Insignia. Insignia, armbands and any other distinctive articles to designate and distinguish the different civil emergency preparedness services;

2. Blackouts. Blackouts and practice blackouts, air raid drills, mobilization of civil emergency preparedness forces and other tests and exercises;

3. Warnings. Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

4. Screening of lights. The effective screening or extinguishing of all lights and lighting devices and appliances;

5. Suspension of utilities. Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

6. Materials and equipment. All materials or equipment used or to be used for civil emergency

preparedness purposes in order to assure that the materials and equipment will be easily and freely interchangeable when used in or by another party state;

7. Traffic. The conduct of civilians and the movement and cessation of movement of pedestrian and vehicular traffic prior, during and subsequent to drills or attacks;

8. Public meetings. The safety of public meetings or gatherings; and

9. Support units. Mobile support units.

§903. Request for mutual aid--Article III

Any party state requested to render mutual aid shall take the action which is necessary to provide the resources covered by this compact in accordance with the terms prescribed in this compact. It is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for itself. Each party state shall extend to the civil emergency preparedness forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers, duties, rights, privileges and immunities as if they were performing their duties in the state in which normally employed, except that the power of arrest shall not be extended unless specifically authorized by the receiving state. While rendering services in another state, civil emergency preparedness forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the civil emergency preparedness authorities of the state receiving assistance.

§904. Special skills--Article IV

Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, that person may render aid utilizing that skill in any party state to meet an emergency or disaster. The party state in which the service is rendered shall give recognition to the license, certificate or other permit as if issued in the state in which aid is rendered.

§905. Liability--Article V

No party state or its officers or employees rendering aid in another state pursuant to this com-

pact shall be liable on account of any act or omission performed in good faith while so engaged. Nor shall a party state or its officers or employees be liable on account of the maintenance or use of any equipment or supplies in connection with rendering aid in another party state.

§906. Supplementary agreements--Article VI

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among 2 or more states may differ from that appropriate among other states party to the compact, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with other states. The supplementary agreements may include, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

§907. Compensation and death benefits--Article VII

Each party state shall provide for the payment of compensation and death benefits to injured members of the civil emergency preparedness forces of that state and the representatives of deceased members of those forces in case those members sustain injuries or are killed while rendering aid pursuant to this compact in the same manner and on the same terms as if the injury or death were sustained within that state.

§908. Reimbursement--Article VIII

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving that aid for any loss or damage to, or expense incurred in the operation of, any equipment used to answer a request for aid and for the cost incurred in connection with those requests. Any aiding party state may assume in whole or in part the loss, damage, expense or other cost, or may loan equipment or donate the services to the receiving party state without charge or cost. Any 2 or more party states may enter into supplementary agreements establishing a different allocation of cost between those states. The United States Government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil emergency preparedness forces for the compensation paid to and the transportation, subsistence and maintenance expenses of those forces while rendering aid or assistance outside the state and may pay fair

and reasonable compensation for the use of the supplies, materials, equipment or facilities utilized or consumed.

§909. Evacuation--Article IX

Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil emergency preparedness areas within them. Those plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of the evacuees to other areas or the bringing in of additional materials or supplies. The plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for those evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Those expenditures shall be reimbursed by the party state of which the evacuees are residents or by the United States Government under plans approved by it. After the termination of the emergency or disaster, the party state of which the evacuees are resident shall assume the responsibility for the support or repatriation of the evacuees.

§910. Availability of compact--Article X

This compact may be entered into by any state, territory or possession of the United States, the District of Columbia and any neighboring foreign country or province or state thereof.

§911. Participation of federal agency--Article XI

The committee established pursuant to Article I of this compact may request the civil emergency preparedness agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of the United States Government agency may attend meetings of that committee.

§912. Entry into force--Article XII

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states which have ratified and shall be subject to approval by Congress unless prior

congressional approval has been given. Duly authenticated copies of this compact and of any supplementary agreements entered into shall, at the time of their approval, be deposited with each of the party states and with the civil emergency preparedness agency and other appropriate agencies of the United States Government.

§913. Withdrawal--Article XIII

This compact shall continue in force and remain binding on each party state until the legislature or the governor of such party state takes action to withdraw from it. That action shall not be effective until 30 days after notice has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.

§914. Construction and separability of provisions--
Article XIV

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or its applicability to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability of it to other persons and circumstances shall not be affected.

§915. Approval of compact

The Governor may approve the Interstate Civil Defense and Disaster Compact and after approving it shall cause it to be filed with the Secretary of State. The Secretary of State shall cause certified or exemplified copies of the compact to be forwarded and deposited with all interested governmental agencies as required by United States Public Law 920, 81st Congress, or with other states, governments or their political subdivisions as may be necessary or desirable under statutes of this State.

CHAPTER 17

NUCLEAR EMERGENCY PLANNING

§951. Short title

This chapter may be cited as the "Maine Nuclear Emergency Planning Act."

§952. Findings and purpose

The Legislature finds that there is the possibility of an accident at any nuclear power plant and

that a major accident could create significant hazards to human health and the environment, which are unique to this method of electric power generation.

The Legislature further finds that proper emergency planning could mitigate the consequences of a major accident at a nuclear power plant, and that it is prudent to conduct such planning.

The Legislature notes that it is the responsibility of state and local authorities to carry out emergency planning, but that there are expenses involved.

The Legislature further finds that it is equitable for the cost of emergency planning to be included as part of the cost of nuclear generation of electricity.

The Legislature intends by the enactment of this chapter to require that the operators of any nuclear power plants in the State pay the costs of planning and making necessary preparation for an emergency at a nuclear power plant or related fuel-cycle activity.

§953. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Committee. "Committee" means the Radiological Emergency Preparedness Committee.

2. Fund. "Fund" means the Maine Nuclear Emergency Planning Fund.

3. License holder. "License holder" means the person who holds the federal license for operation of the nuclear power reactor from the United States Nuclear Regulatory Commission or its successor.

§954. Radiological Emergency Preparedness Committee

1. Created. There is created a Radiological Emergency Preparedness Committee composed of the following people or their designees:

A. The Director of Civil Emergency Preparedness, ex officio, who shall act as chairman;

B. The Commissioner of Public Safety, ex officio;

C. The Director of Health Engineering, ex officio; and

D. Each license holder as a nonvoting member.

2. Annual review of plan. The committee shall prepare an emergency radiological response plan. The purpose of the plan shall be to protect the public and property in the State from dangers posed by radiation, radioactive materials, nuclear materials or the occurrence of a radiological incident as a result of the presence of, release of or emissions from radioactive or nuclear materials in this State. The committee shall establish and annually determine the adequacy of the plan. The plan shall include, but not be limited to, evacuation plans and the requirements for programs established by the Federal Emergency Management Agency and the United States Nuclear Regulatory Commission. Any agency of State Government, county or local government may make requests and recommendations under this program to meet differing needs. This plan shall only apply to those hazards or dangers which arise from the peaceful use of nuclear materials. The committee may require municipalities and state agencies to assist in the preparation of the plan.

3. Budget. The committee shall make a determination of the cost of implementing the plan for the ensuing year. Those costs shall include funding for:

A. Equipment;

B. Supplies;

C. Personnel costs; and

D. Services, including contractual services.

§955. Maine Nuclear Emergency Planning Fund

The Maine Nuclear Emergency Planning Fund is established to be used by the committee as a nonlapsing revolving fund for carrying out the purposes of this chapter. The fund shall be limited to \$250,000. All fees collected under this chapter shall be credited to this fund. Moneys in the fund not needed to meet the current obligations of the committee in the exercise of its responsibilities under this chapter shall be deposited with the Treasurer of State to the credit of the fund, and may be invested as provided for by statute. Interest received on the investment shall be credited to the fund.

§956. Funding

1. Fee. The license holder for any nuclear power reactor operating in this State shall be assessed a fee of \$75,000 for the 1982 fiscal year

and \$50,000 for each year thereafter. License fees shall be paid to the committee and, upon receipt by it, credited to the fund. The committee may waive all or part of this fee if a reactor is shut down for extended periods of time.

2. Suspension. Whenever the balance in the fund has reached the limit provided under this chapter, license fees shall be temporarily suspended. Thereafter, the license holder shall be assessed an annual fee, at the end of each fiscal year, sufficient to reimburse the fund for any expenditures made during the year.

§957. Disbursements from fund

Moneys in the fund shall be disbursed only for the preparation and implementation of emergency planning related to nuclear power plants and their fuel-cycle activities. Expenditures shall be limited to support of state agency activities, grants to counties, municipalities, interjurisdictional or regional civil emergency preparedness agencies and contractual services necessary to carry out the purposes of this chapter. Except as provided in section 959, disbursements from the fund may not exceed \$50,000 each year.

§958. Budget approval

The committee shall report to each Legislature its budget recommendations for disbursements from the fund, together with an allocation bill, as provided in Title 5, section 1664. The report shall be reviewed by the legislative committee having jurisdiction over energy and natural resources prior to action by the legislative committee having jurisdiction over appropriations and financial affairs. Upon approval of the allocation Act, the State Controller shall authorize expenditures from the fund, as approved by the committee.

§959. Emergency assistance

In the event of an actual emergency at a nuclear power plant or related fuel-cycle activity, as declared by the Governor in accordance with section 742, any moneys in the fund at that time may be used to assist the state, counties or municipalities or any interjurisdictional or regional civil emergency preparedness agency in meeting the emergency, subject to approval by the committee.

CHAPTER 19SABOTAGE PREVENTION§1001. Short title

This chapter may be cited as the "Sabotage Prevention Act."

§1002. Relation to other statutes

All Acts and parts of Acts inconsistent with this chapter are suspended in their application to any proceedings under this chapter. If conduct prohibited by this chapter is made unlawful by another or other laws, the offender may be convicted for the violation of this chapter or of the other law or laws.

§1003. Rights of labor unaffected

Nothing in this chapter may be construed to impair, curtail or destroy the lawful rights of employees and their representatives to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, to strike, to picket and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

§1004. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Highway. "Highway" includes any private or public street, way or other place used for travel to or from property.

2. Highway commissioners. "Highway commissioners" means an individual, board or other body having authority under law to discontinue the use of the highway which it is desired to restrict or close to public use and travel.

3. Public utility. "Public utility" includes any pipe line, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication or other system operated for public use regardless of ownership.

§1005. Intentional injury or interference with property

Whoever intentionally destroys, impairs, injures, interferes or tampers with real or personal property with reasonable grounds to believe that their act will hinder, delay or interfere with the preparation of the United States or of any of the states for defense or for war, or with the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution thereof under chapter 13 is guilty of a Class B crime. If that person acts with the intent to hinder, delay or interfere with the preparation of the United States or of any of the states for defense or for war, or with the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution thereof under chapter 13, the minimum sentence shall be imprisonment for not less than one year.

§1006. Intentional defective workmanship

Whoever intentionally makes or causes to be made or omits to note on inspection any defect in any article or thing with reasonable grounds to believe that the article or thing is intended to be used in connection with the preparation of the United States or any of the states for defense or for war, or for the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution of those preparations and plans under chapter 13, or that the article or thing is one of a number of similar articles or things, some of which are intended so to be used, is guilty of a Class B crime. If that person acts or fails to act with the intent to hinder, delay or interfere with the preparation of the United States or of any of the states for defense or for war, or with the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution of those preparations or plans under chapter 13, the minimum sentence shall be imprisonment for not less than one year.

§1007. Conspirators

If 2 or more persons conspire to commit any crime defined by this chapter, each of those persons is guilty of conspiracy which shall be a crime of the same class as the crime which those persons conspired to commit, whether or not any act was done in furtherance of the conspiracy. It shall not constitute defense or ground of suspension of judgement, sentence or punishment on behalf of a person prosecuted under this section that any of his fellow

conspirators has been acquitted, has not been arrested or convicted, is not amenable to justice or has been pardoned or otherwise discharged before or after conviction.

§1008. Witnesses' privileges

No person may excused from attending and testifying, or producing any books, papers or other documents before any court, magistrate, referee or grand jury upon any investigation, proceeding or trial, relating to a violation of this chapter or attempt to commit the violation, upon the grounds that the testimony or evidence required of him by the State may tend to convict him of a crime or to subject him to a penalty or forfeiture. No person may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence and no testimony so given or produced, may be received against him, during any criminal investigation, proceeding or trial, except upon a prosecution for perjury or contempt of court based upon the giving or producing of that testimony.

§1009. Unlawful entry on property

Any individual, partnership, association, corporation, municipal corporation or state or any of its political subdivisions engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war, or in the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution of these preparations and plans under chapter 13, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any individual, partnership, association, corporation, municipal corporation or state or any of its political subdivisions operating a public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around that property at each gate, entrance, dock or railway entrance and every 100 feet of water front a sign reading "No Entry Without Permission." Any person who intentionally enters upon premises posted in that manner without the permission of the owner is guilty of a Class E crime.

§1010. Questioning and detaining suspected persons

Any peace officer or any person employed as

watchman, guard or in a supervisory capacity on premises posted, as provided in section 1009, may stop any person found on any premises to which entry without permission is forbidden by section 1009 and may detain him for the purpose of questioning and may question him with respect to his name, address and business in that place. If the peace officer or employee has reason to believe from the answers of the person so interrogated that the person has no right to be in that place, the peace officer shall forthwith either release that person or arrest the person without a warrant on the charge of violating section 1009. The employee shall forthwith release the person or turn him over to a peace officer, who may arrest him without a warrant on the charge of violating section 1009.

§1011. Closing and restricting use of highway; penalty

Any individual, partnership, association, corporation, municipal corporation or state or any of its political subdivisions engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war, or in the prosecution of war by the United States, or with preparations and plans for civil emergency preparedness, or with the execution of those preparations and plans under chapter 13, or in the manufacturer, transportation, distribution or storage of gas, oil, coal, electricity or water, or any individual, partnership, association, corporation, municipal corporation or state or any of its political subdivisions operating a public utility, who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the highway commissioners of any city, town or county to close one or more of those highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof.

Upon receipt of the petition, the highway commissioners shall set a day for a hearing and publish notice of the hearing in a newspaper having general circulation in the city, town or county in which the property is located. The notice shall be published at least 7 days prior to the date set for the hearing. If, after the hearing, the highway commissioners determine that the public safety and the safety of the property of the petitioner require, they shall, by suitable order, close to public use and travel, or reasonably restrict the use of and travel

upon one or more of those highways or parts thereof. The highway commissioners may issue written permits for travel over the closed or restricted highways to responsible and reputable persons for such term, under such conditions and in such form as they may prescribe. Appropriate notices in letters at least 3 inches high shall be posted conspicuously at each end of any highway closed or restricted by the order. The highway commissioners may at any time revoke or modify the order.

Whoever violates any order made under this section is guilty of a Class E crime.

CHAPTER 21

DAMS AND RESERVOIRS

§1051. Legislative policy

It is the intent of the Legislature to provide for emergency plans and actions for the safe operation of dams and reservoirs in the State in order to protect life and property.

No person, except the Federal Government, may exercise any authority over the emergency regulation or supervision of any dams or reservoirs in the State, where that exercise would conflict with the powers and authority vested in the Bureau of Civil Emergency Preparedness.

§1052. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Bureau. "Bureau" means the Bureau of Civil Emergency Preparedness.

2. Dam. "Dam" means any artificial barrier, including appurtenant works, which impounds or diverts water, and which is 2 feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier or from the lowest elevation of the outside limit of the barrier, if it is not a stream channel or watercourse, to the maximum capable water storage elevation, or has an impounding capacity at maximum water storage elevation of 15-acre feet or more.

3. Emergency or emergency situation. "Emergency" or "emergency situation" means situations deemed by the bureau, after consultation with other state and federal agencies, if time permits, to

present a potential but real and imminent danger to life, limb or property because of flooding or potential and imminent flooding and includes those situations which the Governor declares to be emergency pursuant to section 742.

4. Person. "Person" means any individual, firm, association, partnership, corporation, trust, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

5. Reservoir. "Reservoir" means the body of water immediately upstream of a dam, which is reasonably still or slow-moving due to the stream barrier presented by the dam.

§1053. Administration

This chapter shall be administered by the bureau. In carrying out the provisions of this chapter, the bureau shall consult with other state agencies, including the Soil and Water Conservation Commission, the State Planning Office, the Department of Environmental Protection, Department of Conservation, Department of Transportation and Department of Public Safety, on matters pertaining to the technical aspects of the administration of this chapter and in emergency situations may require the aid and assistance of those agencies.

§1054. Powers of the bureau

1. Rules. The bureau may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt, modify or repeal rules for carrying out this chapter.

2. Orders. The bureau may, in emergency situations, issue reasonable orders necessary for carrying out this chapter or rules adopted under subsection 1.

3. Investigations. For the purpose of enabling it to make decisions as compatible as possible, with economy and protection of life and property and for the purpose of determining compliance with this chapter, the bureau may make necessary investigations and inspections. In making investigations and inspections required or authorized by this chapter, the bureau or its representatives may, as necessary in emergency situations, enter upon public or private property or in nonemergency situations secure administrative warrants from any District Court Judge or Superior Court Justice for the purpose of gaining entry onto private property.

4. Injunction; civil or criminal proceedings. In the event of violation of any of the provisions of this chapter or of any rule, order or decision of the bureau, the bureau may institute injunctive proceedings or other civil action as provided in section 1059.

5. Remedial means. When an emergency situation arises, the bureau shall warn the public of the emergency and shall employ all reasonable remedial means necessary to protect life and property. Remedial means which the bureau may employ include, but are not limited to, the following:

A. Taking full charge and control of any dam or reservoir;

B. Lowering the water level by releasing water from the reservoir;

C. Completely emptying the reservoir;

D. Breaching or removing of the dam itself; and

E. Taking other necessary steps to safeguard life and property.

6. Contingency plans. The bureau shall develop contingency plans for the safe passage of floodwaters and for preparations prior to flood conditions.

§1055. Exemptions

Dams and projects licensed by or subject to the jurisdiction of the Federal Power Commission and dams and projects of public utilities that have been certified to be in a safe condition by the Public Utilities Commission, after inspection at least once in every 5 years, are exempt from this chapter.

§1056. Rights of owner

Nothing in this chapter may be construed to deprive any owner of recourse to the court in which he may be entitled to relief under the laws of this State.

§1057. Damages

1. Immunity. No action may be brought against the State, the bureau or its agents or employees for the recovery of damages caused by the partial or total failure of any dam or reservoir or through the operation of any dam or reservoir upon the ground that the defendant is liable by virtue of any of the following:

A. The issuance or enforcement of orders for the maintenance or operation of the dam or reservoir;

B. Control and regulation of the dam or reservoir; and

C. Measures taken to protect against failure during an emergency.

§1058. Relief of obligation

Nothing in this chapter may be construed as relieving any person from duties, responsibilities and liabilities imposed by any other law, regulation, municipal ordinance or rule of law.

§1059. Violations

In addition to any other forfeitures or penalties provided by law, a person who violates any provisions of this chapter or any rule or order promulgated or issued hereunder shall be subject to a civil penalty of not less than \$100 nor more than \$5,000 for each day that the violation continues. The penalty shall be payable to the State to be recovered in a civil action.

CHAPTER 23

REMOVAL OF ICE JAMS

§1101. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Director. "Director" means the Director of Civil Emergency Preparedness.

2. Ice jams. "Ice jams" means the accumulation of ice or other debris in the bed of any river or stream above the head of tide.

3. Local organization for civil emergency preparedness. "Local organization for civil emergency preparedness" means an organization created in accordance with chapter 13 by state, county or local authority to perform local civil emergency preparedness functions.

§1102. Duties of the director

The director shall establish procedures for protecting the public safety and public and private property from ice jams or other flooding. These

procedures shall contain as a minimum the following:

1. Contingency plans. State and local contingency plans for dealing with emergencies caused by ice jams and other flooding;

2. Reviewing agencies. Designation of those state agencies that shall review requests to remove ice jams and procedures to expedite this review; and

3. Rules. Rules, promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, to carry out the purposes of this chapter.

§1103. Duties of local organization for civil emergency preparedness

1. Monitoring. The local organization for civil emergency preparedness shall monitor water levels, accumulation of ice and debris and other conditions related to flooding in rivers and streams in the area of its jurisdiction.

2. Permission to remove ice jams. If he deems it necessary, the director of a local organization for civil emergency preparedness shall request permission from the director to remove ice jams and other similar hazards. This request shall be submitted in writing, or, if necessary, orally with written confirmation sent within 24 hours.

3. Emergency. If the accumulation of ice or other debris creates an imminent hazard to public safety, the municipal officers, in consultation with the director of the local organization for civil emergency preparedness, may order the immediate removal of these obstructions.

§1104. Procedure

1. Requests. The director shall accept requests from local organizations for civil emergency preparedness to remove ice jams and other accumulation of debris.

2. Review of requests. The director shall designate those agencies that shall review requests for removing ice jams. Each agency designated shall identify the person in the agency responsible for this review, and shall prepare procedures for conducting the review in a timely manner.

3. Notice. Prior to removing any ice jam, the director of the local organization for civil emergency preparedness shall notify the directors of the

local organizations in any area that may reasonably be affected by the removal of an ice jam. Under no circumstances may any ice jams be removed without fulfilling this requirement.

4. Methods. Municipalities may employ any method, including mechanical removal, dusting, icebreaking vessels or explosives to remove ice jams.

§1105. Project Review

If practical, a representative from the Bureau of Civil Emergency Preparedness shall be present during ice jam and debris removal operations. Information that may be useful in future ice jam and debris removal operations shall be recorded. A follow-up report on the specific measures employed and the effectiveness of the removal operation in abating public danger and damage by flood for each removal operation shall be formulated and maintained by the bureau.

Sec. 4. Transition. The following provisions shall apply to the transition from the Revised Statutes, Title 37-A to Title 37-B.

1. Personnel. When this Act goes into effect, it shall have no effect on the terms of employees or officers employed or appointed under the provisions of Title 37-A.

2. Contracts, leases, agreements, authorizations, notes or bonds. All contracts, leases, agreements, authorizations, notes or bonds issued under the Revised Statute, Title 37-A, prior to the effective date of this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

3. Maine Veterans' Home Bonding Authority. The unallocated provisions of Title 37-A, chapter 28, enacted by Public Law 1977, chapter 562, section 2, as amended by Public Law 1977, c. 584, section 1, entitled "Authorization of bond issue for construction of Maine Veterans' Home" shall continue in effect.

Effective September 23, 1983.

CHAPTER 461

S.P. 556 - L.D. 1622

AN ACT Concerning Group Life Insurance
for State Employees and Teachers.