

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

1993-94

SECRETARY OF STATE,
DEPARTMENT OF THE

Elections and Commissions

All Other \$63,000

Provides funds for the purchase and distribution of approximately 3,000 metal boxes for used ballots to 676 municipalities.

Sec. 46. Effective date. This Act takes effect January 1, 1994.

Effective January 1, 1994.

CHAPTER 474**H.P. 1137 - L.D. 1537****An Act to Establish a Development Authority for
Loring Air Force Base**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, the United States Department of Defense has announced its intention to close Loring Air Force Base in Aroostook County by September 1994; and

Whereas, Loring Air Force Base is presently the largest employer in Aroostook County, employing some 5,000 persons; and

Whereas, the Loring Readjustment Committee has been working to assess the potential reuse of the air force base facility and the impact of its closure on surrounding communities; and

Whereas, a legal entity needs to be created to accept the assets of the facility and manage a locally driven process for its readjustment and reuse; and

Whereas, it is critical to implement a reuse and readjustment strategy for the facility to preserve the local economies of the affected communities; and

Whereas, the United States Department of Defense is prepared to begin transferring the assets for their reuse; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA c. 383, sub-c. III, art. 1-B is enacted to read:

Article 1-B**LORING DEVELOPMENT AUTHORITY
OF MAINE****§13080. Loring Development Authority of Maine
established**

The Loring Development Authority of Maine is established to carry out the purposes of this article. The authority is entrusted with acquiring and managing the properties within the geographical boundaries of Loring Air Force Base.

§13080-A. Definitions

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

1. Authority. "Authority" means the Loring Development Authority of Maine.

2. Base area. "Base area" means the area within the geographic boundaries of Loring Air Force Base.

3. Bond. "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

4. Department. "Department" means the Department of Economic and Community Development or its successor.

5. Governing body. "Governing body" means, for a municipality, the municipal legislative body as defined by Title 30-A, section 2001 or, for a county, the board of county commissioners.

6. Loring Air Force Base. "Loring Air Force Base" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense air force base at Limestone existing on the effective date of this section. "Base" also

includes other geographically separate property that the authority determines should be deemed part of the base, if the municipality in which the property is located has chosen not to accept the property and utilize it for other purposes.

7. Operating revenues. “Operating revenues” means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

8. Primary impact community. “Primary impact community” means the municipalities of Caribou, Caswell, Fort Fairfield, Limestone, Presque Isle and Van Buren and Aroostook County.

9. Readjustment or reuse. “Readjustment” or “reuse” means an alternative use of the base facility from its use as a military installation.

10. Real or personal property. “Real or personal property” means those properties and assets transferred by the United States Government or the United States Air Force pursuant to the closure of Loring Air Force Base.

11. Reconstruct or reconstruction. “Reconstruct” or “reconstruction” means any activities undertaken to maintain the properties of Loring Air Force Base, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

§13080-B. Loring Development Authority of Maine; powers; membership; obligations

1. Powers. The authority is a public municipal corporation and may:

A. Sue and be sued;

B. Adopt bylaws or regulations consistent with this article for the governance of its affairs;

C. Exercise all of the general powers of corporations under Title 13-A, section 202;

D. Exercise the power of eminent domain;

E. Provide for the public safety by imposing appropriate regulations, regulating appropriate use of the base facilities and enforcing laws and regulations as they apply to the use of the base facilities;

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents

for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article;

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations and individuals to carry out the purposes of this article;

H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation;

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance;

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues of the authority;

K. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for the purposes for which bonds may be issued and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds;

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided;

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the facility;

N. Adopt rules pursuant to the Maine Administrative Procedure Act; and

O. Take all other lawful action necessary and incidental to these powers.

2. Membership; appointment. The authority is governed by a board of trustees composed of 11 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees to 2-year terms, 2 trustees to 3-year terms, 2 trustees to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor.

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term.

C. The Governor shall make 10 appointments, of which no less than 7 must be from candidates who are residents of Aroostook County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities.

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees.

3. Quorum. Six members constitute a quorum. Six affirmative votes are required for the board to take action.

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741.

5. Expenses. A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

6. Officers; employees. The trustees shall elect a chair and vice-chair from among their members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. For required legal services, the authority may employ or retain its own counsel and legal staff.

§13080-C. Use of operating revenues

1. Principal use of revenue. Operating revenue must be used principally to reinvest in the properties held by the authority.

2. Permitted liability limited. All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

3. Equal opportunity employers. Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

§13080-D. Property of authority

The authority shall hold and acquire property as follows.

1. Lease or sale. Properties may be leased or sold to accomplish the readjustment or reuse of the facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

2. Entry upon lands. The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations it determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

3. Authority for transfers of interest in land to the authority. Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-A.

§13080-E. Special utility districts

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes.

1. Sewer services. The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters III and IV. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

2. Solid waste disposal. The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

3. Water. The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

4. Revenue-producing services. The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

§13080-F. Other municipal powers

1. Traffic ordinances. The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009, to the extent that power is not inconsistent with other validly enacted municipal ordinances.

2. Operating expenses. The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

3. Zoning. The authority may not adopt zoning or land-use ordinances but may coordinate zoning and land-use regulation with interested primary impact communities.

4. Highway maintenance. The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

§13080-G. Bonds

1. Hearing required. The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in the county and holding a duly advertised public hearing on the issuance.

2. Authority. The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding

bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority.

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

3. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds;

B. Whether the bonds are payable upon demand or mature at a certain time or times;

C. The interest rate or rates of the bonds;

D. The denomination or denominations of the bonds;

E. The form of the bonds, whether coupon or registered;

F. The conversion or registration privileges carried by the bonds;

G. The rank or priority of the bonds;

H. The manner of execution of the bonds;

I. The medium and place or places of payment;

J. The terms of redemption of the bonds, with or without premium;

K. The manner secured; and

L. Any other characteristics of the bonds.

4. Price sold. The bonds may be:

A. Sold at not less than par at public sales held after notice has been published in a newspaper of general circulation in the area of operation and in any other medium of publication that the authority designates;

B. Exchanged for other bonds on the basis of par; or

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government.

5. Signatures of outgoing officers; negotiability. If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes, as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

6. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

7. No personal liability; not debt of State or municipality. Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

8. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to

them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

9. Investment of funds; redemption of bonds. The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price.

§13080-H. Interest of public officials, trustees or employees

1. Acquisition of interest. An official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity;

B. Property included or planned to be included in the base area; or

C. A contract or proposed contract in connection with an authority activity.

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the authority trustees and the disclosure must be entered in the board's minutes.

2. Present or past interest in property. If an official, trustee or employee presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

3. Recusal. The official, trustee or employee with an interest may not participate in an action by the authority affecting that property.

4. Incompatible offices. A trustee or other officer of the authority may not hold elected office in a municipality in Aroostook County or in Aroostook County government.

5. Violation. A violation of this section is a Class E crime.

§13080-I. Exemption from execution

1. Property exempt from execution. The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property and a judgment against the authority may not be a charge or lien upon its property.

2. Construction; limitation of application. This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants or revenues.

§13080-J. Designation as port of entry, international airport, foreign trade zone and free port area

1. Port of entry. The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Loring Air Force Base or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

2. Foreign trade zone. The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Loring Air Force Base pursuant to the federal Free Trade Zone Act, 19 United States Code, Section 81, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the zone, make regulations and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the Free Trade Zone Act and the regulations promulgated under that Act.

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones.

3. Other tax-free provisions. The authority may establish an area at Loring Air Force Base in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the area established by the port authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the areas established;

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or

C. Do not lose their exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The exemption granted may be liberally construed to effect the purposes of this article.

§13080-K. Termination of the authority

The authority is not dissolved until:

1. Legislature provides for termination. It is terminated by the Legislature; and

2. Payment of bonds, premiums and interest. The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders.

§13080-L. Annual report

1. Annual financial report. The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

A. A description of the authority's operations;

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year;

C. A listing of all property transactions pursuant to section 13080-D;

D. An accounting of all activities of any special utility district formed under section 13080-E;

E. A listing of any property acquired by eminent domain under section 13080-G;

F. A listing of any bonds issued during the fiscal year;

G. A statement of the authority's proposed and projected activities for the ensuing year; and

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article.

Sec. 2. Report to committee; second regular session. The Loring Development Authority of Maine shall report to the Joint Standing Committee on Housing and Economic Development to the Second Regular Session of the 116th Legislature no later than April 1, 1994.

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

Effective July 13, 1993.

CHAPTER 475

H.P. 1147 - L.D. 1546

An Act Concerning Stalking

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

Sec. 1. 5 MRSA §4654, sub-§4, as enacted by PL 1987, c. 515, §1, is amended to read:

4. Interim relief. The court, in an ex parte proceeding, may enjoin the defendant from engaging in any of the following:

- A. Imposing any restraint upon the person or liberty of the plaintiff;
- B. Threatening, assaulting, molesting, harassing or otherwise disturbing the peace of the plaintiff;
- C. Entering the plaintiff's residence; ~~or~~
- D. Taking, converting or damaging property in which the plaintiff may have a legal interest; or
- E. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment.

If the court enjoins the defendant under this subsection, and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

Sec. 2. 5 MRSA §4655, sub-§1, as amended by PL 1987, c. 708, §5, is further amended to read:

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the harassment alleged, may grant any protection order or approve any consent agreement to bring about a cessation of harassment, which may include:

- A. Directing the defendant to refrain from harassing, threatening, assaulting, molesting, attacking or otherwise abusing the plaintiff;
- B. Directing the defendant to refrain from going on the premises of the plaintiff's residence;
- C. Directing the defendant to refrain from interference with the plaintiff's property;

C-1. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

D. Ordering payment of monetary compensation to the plaintiff for losses suffered as a direct result of the harassment. ~~Compensatory losses shall be~~ are limited to loss of earnings or support; reasonable expenses incurred for personal injuries or property damage; and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded. If it appears from the petition that an order under this paragraph may be granted, the plaintiff or defendant may remove the issue of monetary compensation to the Superior Court where a jury trial may be had. ~~Removal shall~~ must be requested by motion prior to a hearing under section 4654;

E. Ordering the defendant to pay court costs or reasonable ~~attorneys~~ attorney's fees; and