

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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
1997

3. Deceptive insurance practices is a Class D crime.

See title page for effective date.

CHAPTER 780

S.P. 836 - L.D. 2242

An Act to Enter into the Emergency Management Assistance Compact

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

Sec. 1. 5 MRSA §1513, sub-§1-I, as enacted by PL 1997, c. 565, §1, is amended to read:

1-I. Transfer from Maine Rainy Day Fund; disaster assistance. Notwithstanding subsection 2 and section 1585, an amount not to exceed \$5,000,000 \$8,000,000 in fiscal year 1997-98 may be transferred from the available balance in the Maine Rainy Day Fund to the "Administration - Maine Emergency Management Agency" program in the Department of Defense, Veterans and Emergency Management to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used as the State's matching share for disaster assistance associated with the ice storms of 1998.

Sec. 2. 37-B MRSA c. 16 is enacted to read:

CHAPTER 16

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

§921. Purpose and authorities--Article I

The emergency management assistance compact, referred to in this chapter as the "compact," is made and entered into by and between the participating member states that enact this compact, referred to in this chapter as "party states." For the purposes of this agreement, the term "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency or enemy attack.

This compact also provides for mutual cooperation in emergency related exercises, testing or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, with such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

§922. General implementation--Article II

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies that require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual states have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full and effective utilization of resources of the participating states, including any resources on hand or available from the Federal Government or any other source that are essential to the safety, care and welfare of the people in the event of any emergency or disaster declared by a party state, must be the underlying principle on which all articles of this compact are understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management is responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

§923. Party state responsibilities--Article III

1. Formulate plans and programs. It is the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this section. In formulating such plans, and in carrying them out, the party states, to the extent practical, shall:

A. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency or enemy attack;

B. Review party states' individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

C. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

D. Assist in warning communities adjacent to or crossing state boundaries;

E. Protect and ensure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue and critical lifeline equipment, services and resources, both human and material;

F. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

G. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the responsibilities described in this subsection.

2. Request assistance. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this chapter only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within 30 days of the verbal request. Requests must provide the following information:

A. A description of the emergency service function for which assistance is needed, including but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services and search and rescue;

B. The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed; and

C. The specific place and time for staging of the assisting party's response and a point of contact at that location.

3. Consultation between state officials. There must be frequent consultation between state officials who have assigned emergency management respon-

sibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans and resource records relating to emergency capabilities.

§924. Limitations--Article IV

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms of this compact, except that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for that state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, duties, rights and privileges as are afforded forces of the state in which they are performing emergency services, except the power of arrest unless specifically authorized by the receiving state. Emergency forces continue under the command and control of their regular leaders, but the organizational units come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect or loaned resources remain in the receiving state or states, whichever is longer.

§925. Licenses and permits--Article V

Whenever a person holds a license, certificate or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical or other skills, and when such assistance is requested by the receiving party state, such person is deemed licensed, certified or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state prescribes by executive order or otherwise.

§926. Liability--Article VI

Officers or employees of a party state rendering aid in another state pursuant to this compact are considered agents of the requesting state for tort liability and immunity purposes. A party state or its officers or employees rendering aid in another state pursuant to this compact are not liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the mainte-

nance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence or recklessness.

§927. Supplementary agreements--Article VII

Because it is probable that the pattern and detail of the machinery for mutual aid among 2 or more states may differ from that among the states that are party to this compact, this compact contains elements of a broad base common to all states, and nothing in this compact precludes any state from entering into supplementary agreements with another state or affects any other agreements already in force between states. Supplementary agreements may include, but are not 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.

§928. Compensation--Article VIII

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and to representatives of deceased members of those forces if the 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 their own state.

§929. Reimbursement--Article IX

Any party state rendering aid in another state pursuant to this compact must be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding party state may assume in whole or in part any such loss, damage, expense or other cost or may loan such equipment or donate such 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 costs among those states. Expenses under section 928 are not reimbursable under this section.

§930. Evacuation--Article X

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant must be prepared and maintained between the party states and the emergency management or emergency services directors of the various jurisdictions where any type of incident requiring evacuations might occur. These plans must

be put into effect by request of the state from which evacuees come and must 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, the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies and all other relevant factors. The plans must provide that the party state receiving evacuees and the party state from which the evacuees come must mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures must be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

§931. Implementation--Article XI

1. Enactment. This compact becomes operative immediately upon its enactment into law by any 2 states. After it becomes operative, this compact becomes effective as to any other state upon its enactment by that state.

2. Withdraw from compact. Any party state may withdraw from this compact by enacting a statute repealing the compact, but the withdrawal does not take effect until 30 days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. The action does not relieve the withdrawing state from obligations assumed under this compact prior to the effective date of withdrawal.

3. Copy of compact. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into must, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

§932. Validity--Article XII

This chapter is construed to effectuate the purposes stated in section 921. If any provision of this compact is declared unconstitutional or the applicability of the compact to any person or circumstances is held invalid, the constitutionality of the remainder of this chapter and the applicability of the chapter to other persons and circumstances is not affected.

§933. Additional provisions--Article XIII

This compact does not authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call the militia into federal service or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under 18 United States Code, Section 1385.

Sec. 3. Legislative intent. This Act is the enactment of the Emergency Management Assistance Compact approved by Joint Resolution of Congress, Public Law 104-321. The text and numbering of the compact have been changed to conform to Maine statutory conventions. The changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the original compact.

See title page for effective date.

CHAPTER 781

S.P. 818 - L.D. 2204

An Act to Extend the Electric Rate Stabilization Program

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

Whereas, pursuant to current law, no certificates of approval for electric rate stabilization projects may be issued after February 1, 1998; and

Whereas, there continues to be a need for the approval of electric rate stabilization projects; 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. 10 MRSA §1053, sub-§6, as repealed and replaced by PL 1997, c. 489, §7 and c. 492, §1 and affected by §7, is repealed and the following enacted in its place:

6. Securities outstanding. The principal amount of revenue obligation securities the authority may have outstanding at any one time, to which subsection 5 is stated to apply in the trust agreement or other document, may not exceed an aggregate principal amount equal to \$657,000,000 as follows:

A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects;

B. The sum of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for major business expansion projects;

C. The sum of \$57,000,000 consisting of not more than \$45,000,000 for loans and up to \$12,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to workers' compensation residual market mechanism projects; and

D. The sum of \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032 for all other revenue obligation securities issued pursuant to this subchapter.

The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

Sec. 2. 35-A MRSA §3156, last ¶, as amended by PL 1997, c. 492, §3 and affected by §7, is further amended to read:

A certificate may not be issued under this section after ~~February 1~~ July 31, 1998.

Sec. 3. PL 1993, c. 712, §8, as amended by PL 1997, c. 492, §4 and affected by §7, is further amended to read:

Sec. 8. Loans authorized. The Finance Authority of Maine may make loans to electric utilities or to municipal solid waste facilities financed by industrial development or exempt facility bonds, if those facilities are qualifying facilities as defined in