

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

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

Effective May 19, 2011.

**CHAPTER 106**

**H.P. 668 - L.D. 909**

**An Act To Provide Additional Flexibility for the Funding of Infrastructure Improvements by Consumer-owned Water Utilities**

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

**Sec. 1. 35-A MRSA §6104-A, sub-§§2, 3 and 5,** as enacted by PL 2009, c. 237, §2, are amended to read:

**2. Application of this section; qualification; supporting materials.** Notwithstanding section 310 or section 6104, any consumer-owned water utility ~~that meets the requirements of this subsection~~ may elect to increase rates pursuant to this section. ~~To qualify for a rate increase under this section, a consumer-owned water utility must have negative net income in the 2 consecutive fiscal years immediately preceding the year in which the rate increase is proposed. The consumer-owned water utility must file with the commission supporting documentation demonstrating the 2 years of negative net income as provided in this subsection.~~

~~A. A consumer-owned water utility that is required to file balance sheets under section 504, shall file copies for the 3 most recent years of the balance sheet together with other annual financial information the commission may prescribe to be filed pursuant to section 504, subsection 2, including the operating statement or other statements showing annual operating income and expenses.~~

~~B. A consumer-owned water utility that is excused from filing balance sheets pursuant to section 504, subsection 3 shall file copies for the 3 most recent years of financial statements from financial audits or reviews of the utility or other information documenting the operating income and expenses of the utility considered acceptable by the commission.~~

The consumer-owned water utility shall file its proposed rate increase, in accordance with the limits established in subsection 3, along with a copy of the required documentation all materials required to be submitted under section 6104, subsection 4-A supporting the proposed rate increase with the commission and the Public Advocate at least 30 days prior to the

public meeting required under subsection 4. A copy of the required ~~documentation materials~~ supporting the proposed rate increase must be made available to customers for examination at the offices of the utility for at least 30 days prior to the public meeting. The utility shall promptly provide any readily available relevant additional material or information requested by a customer, the commission or the Public Advocate.

**3. Maximum rate increase.** The maximum rate increase that a consumer-owned water utility may propose under this section:

A. Is ~~2%~~ 3% of current rates if the utility is a large consumer-owned water utility. The cumulative total of rate increases under this paragraph may not exceed 10% over 5 years;

B. Is ~~3.5%~~ 5% of current rates if the utility is a medium consumer-owned water utility. The cumulative total of rate increases under this paragraph may not exceed 15% over 5 years; and

C. Is ~~5%~~ 7.5% of current rates if the utility is a small consumer-owned water utility. The cumulative total of rate increases under this paragraph may not exceed 20% over 5 years.

~~The cumulative total of rate increases under this section may not exceed 10% over 5 years.~~

**5. Notice of proposed rate increase and public meeting.** The consumer-owned water utility shall, at least 14 days prior to the public meeting required under subsection 4, publish a notice of the proposed rate increase and the meeting, including the date, time, place and purpose of the meeting, in a newspaper of general circulation in the area encompassed by the consumer-owned water utility and give one notice of the proposed rate change and the date, time, place and purpose of the meeting to each of its customers. The published and individual notices must include a statement describing the amount of the rate increase and the percentage change for each customer class, the customer's right to request information relating to the present and proposed rates and the availability of assistance from the Public Advocate. ~~The published and individual notices must inform customers of the 10-person complaint process under section 1302.~~ Copies of the notice must be sent to the commission and the Public Advocate at least 14 days prior to the meeting.

**Sec. 2. Review and report.** The Public Utilities Commission shall convene a work group that includes representatives of small consumer-owned water utilities and the Public Advocate to examine ways of ensuring that the capital requirements of these water utilities are provided for in an adequate and appropriate manner. The commission shall report the results of the examination and any recommendations for changes to laws to the Joint Standing Committee on Energy, Utilities and Technology by January 15, 2012. The Joint Standing Committee on Energy, Utilities and

Technology may report out a bill to the Second Regular Session of the 125th Legislature relating to the subject matter of the report.

See title page for effective date.

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## CHAPTER 107

### H.P. 938 - L.D. 1279

#### An Act Relating to Qualified Financial Contracts by Domestic Insurers

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

**Sec. 1. 24-A MRSA §4353, sub-§20** is enacted to read:

**20. Netting agreement.** "Netting agreement" means:

A. A contract or agreement, including terms and conditions incorporated by reference into a contract or agreement, including a master agreement, that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration or closeout under or in connection with one or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements under one or more qualified financial contracts, including liquidation or close-out values relating to such obligations or entitlements among the parties to the netting agreement;

B. Any master agreement or bridge agreement for one or more master agreements described in paragraph A; or

C. Any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in paragraph A or B.

A contract or agreement described in paragraph A or B relating to agreements or transactions that are not qualified financial contracts is considered to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts. For the purposes of this subsection, a master agreement together with all schedules, confirmations, definitions and addenda to the master agreement and transactions under any master agreement, is treated as one netting agreement.

**Sec. 2. 24-A MRSA §4353, sub-§21** is enacted to read:

**21. Qualified financial contract.** "Qualified financial contract" means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement and any similar agreement that the superintendent determines to be a qualified financial contract.

A. "Commodity contract" means:

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade or contract market under the federal Commodity Exchange Act or a board of trade outside the United States;

(2) An agreement that is subject to regulation under Section 23 of the federal Commodity Exchange Act and that is commonly known to the commodities trade as a margin account, margin contract, leverage account or leverage contract;

(3) An agreement or transaction that is subject to regulation under Section 4c(b) of the federal Commodity Exchange Act and that is commonly known to the commodities trade as a commodity option;

(4) Any combination of the agreements or transactions referred to in this paragraph; or

(5) Any option to enter into an agreement or transaction referred to in this paragraph.

B. "Forward contract," "repurchase agreement," "securities contract" and "swap agreement" have the meanings set forth in the Federal Deposit Insurance Act, 12 United States Code, Section 1821(e)(8)(D), as amended from time to time.

**Sec. 3. 24-A MRSA §4387** is enacted to read:

#### **§4387. Qualified financial contracts**

**1. Qualified financial contracts.** Notwithstanding any other provision of this chapter, including any other provision of this chapter permitting the modification of contracts, or other provision of law to the contrary, a person may not be stayed or prohibited from exercising:

A. A contractual right to cause the termination, liquidation, acceleration or closeout of obligations under or in connection with any netting agreement or qualified financial contract with an insurer because of:

(1) The insolvency, financial condition or default of the insurer at any time, if the right is enforceable under applicable law other than this chapter; or

(2) The commencement of a formal delinquency proceeding under this chapter;