

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

hear and determine the motion ~~expeditiously~~. The hearing on the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At that hearing, the plaintiff ~~shall have~~ has the burden of justifying any finding in the ex parte order ~~which that~~ the defendant has challenged by affidavit. Nothing in this section may be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

See title page for effective date.

CHAPTER 560

S.P. 615 - L.D. 1778

An Act Relating to the Governance of the Maine State Housing Authority

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

Sec. 1. 30-A MRSA §4723, as amended by PL 2007, c. 101, §1, is further amended to read:

§4723. Appointment, qualifications, tenure and meetings of commissioners and directors

1. Municipality. The following provisions apply to municipal housing authorities.

A. Each authority shall appoint 7 commissioners. No commissioner may be appointed until the authority is authorized to function as provided in section 4721. In the case of a city having a mayor-council form of government, the mayor shall appoint the commissioners with the advice and consent of the council. In the case of a city having a manager-council form of government, the council shall appoint the commissioners. In the case of a town, the municipal officers shall appoint the commissioners.

Any person who resides within the authority's boundaries or area, and who is otherwise eligible for appointment under this chapter, may be appointed as a commissioner of the authority. This section does not prevent a commissioner from concurrently serving as a commissioner on a renewal authority established by any city with a population of 20,000 or more.

The commissioners who are initially appointed under this section serve for terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment. Thereafter, the commissioners are appointed for terms of 5 years, except that all vacancies must be filled for the unexpired terms. All subsequent appointments and appointments to

fill a vacancy must be made as provided in this subsection.

(1) In a municipality with housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development, at least 2 of the commissioners must be residents of that housing. When tenant associations exist in the housing, the appointing authority shall give priority consideration to nominations made by the associations. The first commissioner appointed to an authority, who is a resident of subsidized or assisted housing, serves for a 4-year term from the date of appointment. Thereafter, the commissioner must be appointed as provided in this subsection.

(2) A certificate of the appointment or reappointment of any commissioner must be filed with the authority. This certificate is conclusive evidence of the due and proper appointment of the commissioner.

B. A commissioner shall receive no compensation for services but is entitled to any necessary expenses, including travel expenses, incurred in the discharge of duties. Each commissioner shall hold office until a successor has been appointed and has qualified.

C. Each authority shall elect a ~~chairman~~ chair and ~~vice-chairman~~ vice-chair from among the commissioners. An authority may employ a secretary, who ~~shall be~~ is executive director, and technical experts and any other officers, agents and employees that it requires and shall determine their qualifications, duties and compensation. An authority may employ its own counsel and legal staff. It may delegate to its agents or employees any powers or duties that it considers proper.

D. The powers of an authority are vested in its commissioners. Meetings of the commissioners may be held anywhere within the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Four commissioners constitute a quorum of an authority for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. The authority may take action upon the vote of a majority of the commissioners present, unless its bylaws require a larger number.

2. State. The following provisions apply to the state housing authority.

B. The Maine State Housing Authority, as authorized by Title 5, chapter 379, must have 10 commissioners, 8 of whom must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdic-

tion over economic development and to confirmation by the Legislature. The 9th commissioner is the Treasurer of State who serves as an ex officio voting member. The Treasurer of State may designate the Deputy Treasurer of State to serve in place of the Treasurer of State. The 10th commissioner is the director of the Maine State Housing Authority who serves as an ex officio nonvoting member. At least 3 gubernatorial appointments must include a representative of bankers, a representative of elderly people and a resident of housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development or of the Maine State Housing Authority. In appointing the resident, the Governor shall give priority consideration to nominations that may be made by tenant associations established in the State. Of the 5 remaining gubernatorial appointments, the Governor shall give priority to a representative involved in the housing business and a representative of people with disabilities. The powers of the Maine State Housing Authority are vested in the commissioners. The commissioners may delegate such powers and duties to the director of the Maine State Housing Authority as they determine appropriate.

The Governor shall appoint the chair of the commissioners from among the 8 gubernatorial appointments. The chair serves as a nonvoting member, except that the chair may vote only to break a tie when the chair's vote will affect the result. The commissioners shall elect a vice-chair of the commissioners from among their number. ~~The commissioners of the Maine State Housing Authority shall establish and revise from time to time policies of the Maine State Housing Authority relating to the following particular matters:~~

- ~~(1) Standards of issuing, servicing and redeeming bonds;~~
- ~~(2) Purchase, sale or commitment to purchase mortgages or notes;~~
- ~~(3) Initiating project construction and accepting properly completed facilities;~~
- ~~(4) Setting and establishing selection and evaluation standards, criteria and procedures under which it will purchase, sell or agree to purchase loans, notes or obligations, having regard among other things to:

 - ~~(a) Property values;~~
 - ~~(b) Local economic conditions and expectancy;~~
 - ~~(c) Credit and employment; and~~
 - ~~(d) Local housing conditions and needs and the availability of credit resources to meet those needs relative to similar or~~~~

~~competing conditions and needs in other localities in the State;~~

~~(5) Setting and establishing procedures for the servicing of loans, notes and obligations acquired by it, including the allowance of servicing fees to participating lenders to whom the Maine State Housing Authority may entrust such servicing;~~

~~(6) Setting and establishing procedures for the collection of money due from persons liable for payment, as to any loan, note or obligation held by the Maine State Housing Authority, by subrogation or otherwise, and to initiate and maintain any action at law or in equity, including foreclosure proceedings, to enforce payment;~~

~~(7) Setting and establishing procedures for the orderly liquidation and disposition of any property acquired by the Maine State Housing Authority through foreclosure or otherwise in full or partial satisfaction of any debt or obligation held by it; and~~

~~(8) Establishing and maintaining out of income or otherwise any reserves that the Maine State Housing Authority from time to time determines to be necessary and prudent in addition to those specifically required.~~

Following reasonable notice to each commissioner, 5 commissioners of the Maine State Housing Authority constitute a quorum for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the commissioners upon a vote of a majority of the commissioners present, unless otherwise specified in law or required by its bylaws ~~require a larger number.~~

C. The Maine State Housing Authority ~~shall~~ must have a director, who must be a person qualified by training and experience to perform the duties of the office. The Governor shall appoint the director of the Maine State Housing Authority, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development, and to confirmation by the Legislature.

(1) The director is the chief administrative officer of the Maine State Housing Authority shall serve on a full time basis for a 4 year term of office, and until a successor has been appointed and qualified. The Governor commissioners shall establish the rate and amount of compensation of the director. The commissioners are responsible for the performance review and termination of the director. Any decision to terminate the director

must be made by an affirmative vote of at least 5 commissioners.

~~(2) The powers and duties of the Maine State Housing Authority, except those listed in paragraph B, are vested solely in the director of the Maine State Housing Authority. The director of the Maine State Housing Authority or a representative shall attend all meetings of the advisory board or of the commissioners.~~

(3) The director of the Maine State Housing Authority shall supervise the administrative affairs and technical activities of the Maine State Housing Authority in accordance with the rules and policies established by the commissioners. The director of the Maine State Housing Authority may act in all personnel matters and may employ technical or legal experts and any other officers, agents and employees that the director requires, and shall determine their qualifications, duties and compensation. The director may delegate to the employees and agents any powers and duties that the director considers proper.

D. Any person who, at the time of appointment, is a resident of the State, may serve as a commissioner, except that the director need not be a resident of the State before being appointed.

(1) Each commissioner, except for the director and the Treasurer of State, serves a 4-year term beginning with the expiration of the term of that person's predecessor, except that a vacancy occurring in a position before the normal expiration of the appointment must be filled as soon as practicable by a new gubernatorial appointee who serves for the remainder of the unexpired term. Each commissioner continues to hold office after the term expires until a successor is appointed. In any instance in which more than one commissioner is serving beyond the original term, any new appointee is deemed to succeed the commissioner whose term expired first.

(2) The Secretary of State shall prepare a certificate evidencing the appointment of each commissioner. An original of this certificate must be provided to the appointee. One authenticated copy must be retained by the Maine State Housing Authority and one by the Secretary of State. An authenticated certificate of appointment is conclusive evidence of the appointment.

E. The director is a full-time employee of the authority, but may receive fees or honoraria for services provided to others not in conflict with full-

time duties and not performed during time for which the director is receiving compensation from the Maine State Housing Authority. In addition to any authorized compensation, the director is entitled to any employee benefits that are available to other employees of the Maine State Housing Authority, including, but not limited to, authority contributions to any retirement plan, insurance plan, deferred compensation plan or other similar benefits. Each commissioner ~~and advisory board member~~ is entitled to compensation according to the provisions of Title 5, chapter 379, except notwithstanding Title 5, section 12003-A, subsection 4, authorized expenses incurred by a state employee, or designee of that state employee, serving in an ex officio capacity as a commissioner must be paid from the budget of the authority.

Sec. 2. 30-A MRSA §4725, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

§4725. Removal of commissioners

A commissioner ~~or director~~ may be removed from office for inefficiency, neglect of duty or misconduct in office after hearing by the legislative body of a city, the selectmen of a town, or ~~the Governor~~, in the case of the Maine State Housing Authority, the Governor. The commissioner ~~or director~~ must be given a copy of the charges at least 10 days before the hearing and must be given an opportunity to be heard in person or to be represented by counsel. If a commissioner ~~or a director~~ is removed, a record of the proceedings, together with the charges and the findings on the charges, ~~shall~~ must be filed in the office of the clerk or, in the case of the Maine State Housing Authority, in the office of the Secretary of State. This section does not apply to the director of the Maine State Housing Authority, who may be removed by the commissioners pursuant to section 4723, subsection 2, paragraph C.

Sec. 3. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 30-A, section 4723, subsection 2, paragraph D, of the 3 commissioners serving on the Maine State Housing Authority whose terms are scheduled to expire on September 30, 2015, the term of one of those commissioners, determined by the Governor, expires on September 30, 2016, the term of another of these commissioners, determined by the Governor, expires on September 30, 2017 and the term of the 3rd commissioner, determined by the Governor, expires on September 30, 2018.

See title page for effective date.