

## CHAPTER 61

### GENERAL PROVISIONS AND RATES

#### §6101. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 141, Pt. A, §6 (NEW).]

##### 1. Governing body.

[PL 1987, c. 490, Pt. B, §10 (RP).]

**1-A. Consumer-owned water utility.** "Consumer-owned water utility" means any water utility which is wholly owned by its consumers, including its consumers served in the State. "Consumer-owned water utility" includes but is not limited to:

A. Any municipal or quasi-municipal water district or corporation located in the State; [PL 2019, c. 311, §3 (NEW).]

B. Any municipal water department located in the State; or [PL 2019, c. 311, §3 (NEW).]

C. The water portion of any utility wholly owned by a municipality or district located in the State. [PL 2019, c. 311, §3 (NEW).]

[PL 2019, c. 311, §3 (RPR).]

**1-B. Governing body.** "Governing body" means the governing body of a consumer-owned water utility.

[PL 1987, c. 490, Pt. B, §11 (NEW).]

**2. Service line.** "Service line" means the pipeline, including the meter and other appurtenances, extending from a water main to the building or other premises served.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**3. Water district.** "Water district" means any district, including any multipurpose district, created by the private and special laws of the State to perform the functions of a water utility.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**4. Water main extension.** "Water main extension" means an extension of the pipeline, including associated appurtenances, from an existing water main to serve a previously unserved location or a location served by a seasonal main.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §§B10,B11 (AMD). PL 2019, c. 311, §3 (AMD).

#### §6102. Filing with the commission plans for construction or improvements of water systems

**1. General requirements.** Any water utility, before commencing construction of a new water system or a major addition to or alteration of an existing water system, shall file with the commission, in accordance with the commission's rules, plans and specifications for the construction, addition or alteration in order to obtain the advice of the commission as to cost, method of financing and adherence to proper engineering standards. If the water utility, in whole or in part in consequence of the requirements of the federal Safe Drinking Water Act, 42 United States Code, Sections 300f to 300j-11, will incur expenses in the construction, addition or alteration that are likely to result in increases in rates, tolls or charges totaling more than 50% of the utility's annual operating revenues, the utility shall publish in a newspaper of general circulation in the service territory of the water utility a notice to customers that information regarding the construction, addition or alteration is available for public

review at a location and in a manner that is convenient to the water utility's ratepayers and provide to each of the water utility's customers a direct written notice of the availability of that information.

[PL 2001, c. 488, §1 (AMD).]

**2. Certain construction or improvements; additional requirements.**

[PL 2001, c. 488, §2 (RP).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1991, c. 52, §1 (RPR). PL 1993, c. 91, §9 (AMD). PL 2001, c. 488, §§1,2 (AMD).

**§6102-A. Rate-adjustment mechanism for water utilities**

**1. Rate-adjustment mechanism.** Notwithstanding any provision of law to the contrary, the commission may establish or authorize a reasonable rate-adjustment mechanism to decouple water utility revenues from water utility sales through revenue reconciliation when changes in sales are due to a change in the number of customers or a change in the volume of consumption. In determining the reasonableness of any such rate-adjustment mechanism, the commission shall apply the standards of section 301 and shall consider the transfer of risks associated with any such changes in sales and, to the extent these risks are transferred between the utility and its customers, the commission shall consider the effect of the transfer of risk in determining a utility's allowed rate of return.

[PL 2015, c. 115, §1 (NEW).]

**2. Report.** The commission, as part of its annual report pursuant to section 120, shall list rate adjustments that have been requested and those that have been granted.

[PL 2015, c. 115, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 115, §1 (NEW).

**§6103. Authority for taxation under default**

**1. Issuance of a warrant.** If there is a default in the payment of the principal of, or interest on, a note, bond or other evidence of indebtedness issued by a water district created by special Act of the Legislature, the trustees, directors or managing board of the district shall, unless the default is cured, issue their warrant immediately to those portions of the municipality or municipalities which constitute the district.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**2. Form of warrant.** The form of the warrant shall be reasonably similar to the warrant used by the Treasurer of State for real estate taxes.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**3. Assessment and collection of taxes.** In the warrant for payment of the sum, the assessors in each municipality shall assess the sum allocated to the municipality or portion of the municipality upon the taxable estates within the municipality or portion of the municipality and shall commit their assessment to the constable or collector of the municipality, who shall have all authority, powers and duty to collect the taxes as is vested by law to collect state, county and municipal taxes.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**4. Allocation if district is composed of more than one municipality.** If the district is composed of more than one municipality or portion of a municipality, the trustees shall make the allocation on a basis resulting in a uniform rate applied to 100% of the state valuation on all taxable property within the water district.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**5. Treasurer to pay tax within 30 days.** Within 30 days after the date fixed by the municipalities on which their taxes are due, the treasurer of the municipality shall pay the tax assessed to the treasurer of the district.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**6. Section not effective until approved by municipality.** This section may not take effect until it or former Title 35, section 3211, has been approved at a regular or special meeting by a majority of the legislative body of the municipality or municipalities which constitute the district. The appropriate municipal official shall declare the action of the legislative body, file a certificate of it with the Secretary of State and with the clerk of the district.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

#### **§6104. Municipal and quasi-municipal water utilities subject to suspension, investigation, hearing and rate substitution**

**1. Application of this section.** Notwithstanding section 310, any consumer-owned water utility that proposes to increase or decrease rates, tolls or charges may elect to set rates pursuant to this section. [PL 1995, c. 255, §7 (AMD).]

**2. Utilities that elect to set rates under this section.** Consumer-owned water utilities that elect to set rates under this section may not increase or decrease any rate, toll or charge without first holding a public hearing at which the Public Advocate and any customer may testify and may question the officials present regarding the proposed rate change. [PL 1995, c. 255, §8 (AMD).]

**3. Notice of proposed rate change and hearing.** The consumer-owned water utility shall, at least 14 days prior to the hearing, provide notice of the proposed rate change and the date, time, place and purpose of the hearing to its customers in a manner prescribed by the commission. Any such notice must include a statement describing the amount of the rate change and the percentage change for each customer class, the customer's right to request information relating to the present and proposed rates, the right to an open and fair hearing and the right to further hearings before the commission, and the availability of assistance from the Public Advocate. Any such notice must inform customers that they can petition the commission to investigate the proposed rate change and must include a statement that signatures on petitions filed pursuant to subsection 7 are invalid unless accompanied by the printed names and addresses of the signers. Any such notice must also inform customers that the utility will, upon request, provide customers with petition forms that include space for signatures and the printed names and addresses of the signers. Copies of all notices must be sent to the commission and the Public Advocate at least 14 days prior to the hearings. [PL 2023, c. 325, §3 (AMD).]

**4. Notice that rate change may be investigated by commission.** At the commencement of each hearing held pursuant to this section, the consumer-owned water utility shall inform those present that the rate change may be investigated by the commission in accordance with this section and that petitions filed pursuant to subsection 7 must bear the signatures and the printed names and addresses of the signers. Upon request, the utility shall provide customers with petition forms that include space for signatures and the printed names and addresses of the signers. [PL 1995, c. 255, §10 (AMD).]

**4-A. Supporting materials.** The water utility shall file a copy of all materials supporting the proposed rate change with the commission and the Public Advocate, at least 30 days prior to the hearing. A copy of all material supporting the proposed rate change shall be made available to customers for examination at the offices of the utility for at least 30 days prior to the hearing. The utility shall

promptly provide any readily available relevant additional material or information requested by a customer, the commission or the Public Advocate.

[PL 1995, c. 255, §11 (AMD).]

**5. Filing changed rates.** The water utility shall file its changed rates with the commission within 30 days of the public hearing, but not sooner than 10 days following the public hearing.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**6. Effective date established for rate change.** Subject to the notice and waiver requirements of section 307, water utilities electing to set rates under this section may establish an effective date for a rate change of at least one month, but not more than 9 months, from the date the rates are filed with the commission.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**7. Authority to investigate rate changes.** If, within 30 days of the public hearing, 15% of the customers of the consumer-owned water utility or 1,000 customers, whichever is less, file with the treasurer of the utility and with the commission petitions demanding a review of the rate changes by the commission, the rate change may be suspended, investigated, reviewed and changed in accordance with section 310, except that if a rate increase is more than 50% of the utility's annual operating revenues, the required number of petitions is 15% of the customers of the consumer-owned water utility or 500 customers, whichever is less. No suspension order issued by the commission pursuant to section 310 is effective for a period greater than 9 months from the date the rate changes were filed.

[PL 1991, c. 52, §2 (AMD).]

**8. Procedure for suspension of rate change.** If the number of signatures on the petitions is 1,000 or if the number of signatures on the petitions equals or exceeds 15% of the customers indicated on the water utility's most recent annual report on file with the commission, the commission may suspend the rate change pursuant to section 310. The commission shall notify the water utility of the suspension.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**9. Water utility may challenge petitions.** A consumer-owned water utility has 10 days from receipt of notice to notify the commission and the lead petitioner whether it intends to contest any aspect of the validity of the petitions, after which it loses that right. If the utility intends to challenge the validity of individual signatures on the petitions, it must identify, in its notice to the commission and lead petitioner, the specific signatures it is challenging and state the grounds for challenging each signature it believes is invalid. When the utility files its notice of intent to challenge the validity of the petitions, the utility shall provide the commission and the lead petitioner with a list of its customers. If the water utility notifies the commission in a timely fashion that it wishes to contest the validity of the petitions, the commission shall schedule a hearing. It shall hold the hearing and issue its decision on the validity of the petitions within 30 days of notification by the water utility that it intends to contest the validity of the petitions. If the commission finds the petitions to be invalid, it shall lift its order of suspension. For the purposes of this section, "customer" means, in the case of residential accounts, any one adult residing in a household where the utility's service is provided and, in the case of all other accounts where the utility's service is provided, a corporate officer, a partner or a proprietor. No more than one person may sign on behalf of an account. No person may sign on behalf of more than one account unless the person is a customer at each account.

Signatures on petitions filed pursuant to subsection 7 are valid only if accompanied by the printed names and addresses of the signers. If a petition filed pursuant to subsection 7 bears a sufficient total number of signatures but an insufficient number of printed names and addresses of the signers, the lead petitioner has 7 days from receipt of notice of the utility's challenge to cure the invalidity. If the utility's only challenge to a petition relates to the absence of printed names or addresses of the signers of the petition and the lead petitioner cures the invalidity as provided in this subsection, the commission is not required to hold a hearing under this subsection.

[PL 1993, c. 589, §11 (AMD).]

**10. Review of rates under section 310.** Nothing in this section prohibits a consumer-owned water utility from petitioning the commission for review pursuant to section 310.

[PL 2023, c. 325, §4 (AMD).]

**11. Correction of errors.** Upon review of a rate filing made pursuant to this section, the commission may order the municipal or quasi-municipal water utility to correct mathematical or clerical errors.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §B12 (AMD). PL 1987, c. 628, §§2-4 (AMD). PL 1989, c. 159, §§7,8 (AMD). PL 1991, c. 52, §2 (AMD). PL 1993, c. 589, §§9-11 (AMD). PL 1995, c. 255, §§7-11 (AMD). PL 2023, c. 325, §§3, 4 (AMD).

#### §6104-A. Consumer-owned water utilities; streamlined ratemaking

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

A. "Large consumer-owned water utility" means a consumer-owned water utility with total annual revenues of at least \$1,000,000 during the most recent fiscal year. [PL 2023, c. 325, §5 (AMD).]

B. "Medium consumer-owned water utility" means a consumer-owned water utility with total annual revenues of less than \$1,000,000 and at least \$500,000 during the most recent fiscal year. [PL 2023, c. 325, §5 (AMD).]

C. "Small consumer-owned water utility" means a consumer-owned water utility with total annual revenues of less than \$500,000 during the most recent fiscal year. [PL 2023, c. 325, §5 (AMD).]  
[PL 2023, c. 325, §5 (AMD).]

**2. Application of this section; qualification; supporting materials.** Notwithstanding section 310 or section 6104, any consumer-owned water utility may elect to increase rates pursuant to this section.

A. [PL 2011, c. 106, §1 (RP).]

B. [PL 2011, c. 106, §1 (RP).]

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 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 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.

[PL 2011, c. 106, §1 (AMD).]

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

A. Is 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; [PL 2011, c. 106, §1 (AMD).]

B. Is 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 [PL 2011, c. 106, §1 (AMD).]

C. Is 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. [PL 2011, c. 106, §1 (AMD).]

[PL 2011, c. 106, §1 (AMD).]

**4. Utilities that set rates under this section; public meeting required.** Consumer-owned water utilities that qualify to increase rates under this section may not increase any rate, toll or charge without first holding a public meeting at which the Public Advocate and any customer may provide comment and may question the officials present regarding the proposed rate increase.

[PL 2009, c. 237, §2 (NEW).]

**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, provide notice of the proposed rate change and the date, time, place and purpose of the meeting to its customers in a manner prescribed by the commission. Any such notice 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. Copies of all notices must be sent to the commission and the Public Advocate at least 14 days prior to the meeting.

[PL 2023, c. 325, §6 (AMD).]

**6. Public meeting; vote of governing body; minutes.** At the commencement of each public meeting held pursuant to this section, the consumer-owned water utility shall inform those present of the reason for the rate change. Each public meeting held pursuant to this section must include a public comment period. After the public meeting, the governing body of the consumer-owned water utility shall hold a meeting to deliberate and vote on the proposed rate increase, which may be modified on the basis of the public comment received during the public meeting. The consumer-owned water utility shall take minutes of the public meeting and the subsequent meeting of the governing body.

Within 30 days of the public meeting, the consumer-owned water utility shall file with the commission and the Public Advocate a copy of the minutes of that meeting, which must include a record of the public comment received. Within 30 days of the meeting of the governing body of the consumer-owned water utility held under this subsection, the consumer-owned water utility shall file with the commission and the Public Advocate a copy of the minutes of that meeting, which must include the vote of the governing body, along with responses of the governing body to the public comment received. A copy of the minutes of each meeting must be made available to customers for examination at the offices of the utility.

[PL 2009, c. 237, §2 (NEW).]

**7. Filing changed rates.** The consumer-owned water utility shall file its changed rates with the commission within 30 days of the vote of the governing body of the consumer-owned water utility under subsection 6, but not sooner than 10 days following the vote.

[PL 2009, c. 237, §2 (NEW).]

**8. Effective date established for rate change.** Subject to the notice and waiver requirements of section 307, consumer-owned water utilities electing to set rates under this section may establish an effective date for a rate change of at least one month, but not more than 9 months, from the date the rates are filed with the commission under subsection 7.

[PL 2009, c. 237, §2 (NEW).]

**9. Review of rates under section 310.** Nothing in this section prohibits a consumer-owned water utility from petitioning the commission for review pursuant to section 310 or filing a rate change pursuant to section 6104.

[PL 2023, c. 325, §7 (AMD).]

**10. Correction of errors.** Upon review of a rate filing made pursuant to this section, the commission may order the consumer-owned water utility to correct mathematical or clerical errors.

[PL 2009, c. 237, §2 (NEW).]

#### SECTION HISTORY

PL 2009, c. 237, §2 (NEW). PL 2011, c. 106, §1 (AMD). PL 2023, c. 325, §§5-7 (AMD).

#### §6104-B. Consumer-owned water utilities; expedited rate adjustments

**1. Application of this section.** Notwithstanding section 310, 6104 or 6104-A, a consumer-owned water utility may elect to adjust rates pursuant to this section.

[PL 2023, c. 325, §8 (NEW).]

**2. Maximum rate adjustment.** The maximum rate adjustment that a consumer-owned water utility may propose under this section is 1.5% of current total annual revenue. A consumer-owned water utility may not propose a rate adjustment under this section more than once every 11 months.

[PL 2023, c. 325, §8 (NEW).]

**3. Notice of proposed rate increase.** The consumer-owned water utility shall, at least 30 days prior to the effective date of the rate adjustment, provide notice of the proposed rate change to the commission, to the Public Advocate and to its customers in a manner prescribed by the commission. Any such notice must include a statement describing the amount of the rate adjustment, the percentage change for each customer class and a brief explanation of the reason for the rate adjustment. A consumer-owned water utility that elects to adjust rates pursuant to this section and has been granted an exemption from sections 6104 and 6104-A by the commission in accordance with section 6114 is exempt from the requirement to file the notice of the proposed rate change with the commission and the Public Advocate under this subsection.

[PL 2023, c. 325, §8 (NEW).]

**4. Filing changed rates.** The consumer-owned water utility shall file, in a manner prescribed by the commission, its adjusted rates with the commission and the Public Advocate at least 30 days prior to the effective date of the rate change.

[PL 2023, c. 325, §8 (NEW).]

**5. Effective date established for rate change.** Subject to the notice and waiver requirements of section 307, a consumer-owned water utility electing to adjust rates under this section may establish an effective date for a rate adjustment of at least one month, but not more than 9 months, from the date the rates are filed with the commission under subsection 3.

[PL 2023, c. 325, §8 (NEW).]

**6. Investigation of rates.** Nothing in this section prohibits a consumer-owned water utility from petitioning the commission for investigation pursuant to section 310 or filing a rate change pursuant to section 6104 or 6104-A.

[PL 2023, c. 325, §8 (NEW).]

**7. Correction of errors.** Upon review of a rate filing made pursuant to this section, the commission may order the consumer-owned water utility to correct mathematical or clerical errors.

[PL 2023, c. 325, §8 (NEW).]

**8. Suspension of the adjustment.** Notwithstanding any provision of this section to the contrary, the commission may at any time within the period preceding the effective date of the rate adjustment suspend the adjustment by filing with the proposed adjustment and delivering to the consumer-owned

water utility a statement of its reasons for the suspension. The suspension may not be for a period longer than 12 months from the effective date of the order of suspension.

[PL 2023, c. 325, §8 (NEW).]

#### SECTION HISTORY

PL 2023, c. 325, §8 (NEW).

### §6105. Rates for municipal and quasi-municipal water utilities

**1. Scope of section.** Notwithstanding any other provision of this Title or any charter to the contrary and in addition to any charter or private and special laws creating or affecting a consumer-owned water utility, the rate, toll or charge made, exacted, demanded or collected by a consumer-owned water utility is governed by this section.

[PL 1987, c. 490, Pt. B, §13 (AMD).]

**2. Just and reasonable rates.** The governing body shall establish rates, tolls or charges that are just and reasonable and that provide revenue as may be required to perform its public utility service and to attract necessary capital on just and reasonable terms. The governing body shall provide the rate schedule and any changes to the rate schedule to the commission.

[PL 2013, c. 573, §1 (AMD).]

**3. Uniform rates.** The governing body shall establish rates that are uniform within the territory supplied whenever the installation and maintenance of mains and the cost of service is substantially uniform. If, for any reason, the cost of construction and maintenance or the cost of service in a section of the territory exceeds the average, the governing body may establish higher rates for that section, but these higher rates must be uniform throughout that section. The governing body shall provide the rate schedule and any changes to the rate schedule to the commission.

[PL 2013, c. 573, §1 (AMD).]

**3-A. Impact fees and connection fees; affordable housing.** Notwithstanding subsection 3 and section 703, the governing body may reduce the impact fee or connection fee, as those terms are defined in Title 30-A, section 5061, for water service to newly constructed affordable housing in accordance with Title 30-A, chapter 202-A.

[PL 2007, c. 174, §3 (NEW).]

**4. Purposes.** The governing body may establish rates under this section to provide revenue for the following purposes, but no other:

A. To pay the current expenses for operating and maintaining the water system and to provide for normal renewals and replacements; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. To provide for the payment of the interest on the indebtedness created or assumed by the utility; [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. To provide each year a sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the utility; the sum must be turned into a sinking fund and there kept to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund must be devoted to the retirement of the term obligations of the utility and may be invested in such securities as savings banks in the State are allowed to hold; [PL 2013, c. 573, §2 (AMD).]

D. To provide for annual principal payments on serial indebtedness created or assumed by the utility; [PL 1989, c. 59, §1 (AMD).]

E. To provide for a contingency allowance as provided in section 6112; [PL 2011, c. 602, §1 (AMD).]



F. To provide for rate adjustments to reflect the cost of anticipated construction of plants or facilities required by the 1986 amendments to the United States Safe Drinking Water Act, Public Law 93-523, or related projects, except that rates established under this paragraph are not subject to section 6104; and [RR 2011, c. 2, §39 (COR).]

G. To provide for recovery of the amounts necessary to fund the replacement of water system infrastructure. Those funds must be deposited in a capital reserve account and used in accordance with section 6107-A. [PL 2011, c. 602, §3 (NEW).]

[PL 2013, c. 573, §2 (AMD).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §§B13,B14 (AMD). PL 1989, c. 59, §§1-3 (AMD). RR 1991, c. 2, §131 (COR). PL 1991, c. 221, §1 (AMD). PL 2003, c. 529, §1 (AMD). PL 2007, c. 174, §3 (AMD). RR 2011, c. 2, §39 (COR). PL 2011, c. 602, §§1-3 (AMD). PL 2013, c. 573, §§1, 2 (AMD).

#### §6106. Apportionment of costs for water main extensions or service lines

**1. Investment.** The governing body of a consumer-owned water utility may choose to make no investment in a water main extension or service line and may require persons requesting a water main extension or service line to advance to the utility the full cost of construction, including associated appurtenances required solely as a result of the construction of the water main extension or service line and used solely for the operation of the main extension or service line. Apportionment of the costs among customers shall be determined by the commission by rule.

[PL 1987, c. 490, Pt. B, §15 (AMD).]

**2. Assessments.** The governing body may assess the full cost of water main extensions on all property that abuts the water main in accordance with rules promulgated by the governing body. The owner of any property which is not hooked up to the water system may defer payment of the assessment until it is hooked up. The governing body by rule may exempt appropriate classes of property from the assessment and may provide for payment of an assessment over a period of time.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**3. Review by elected local officials.** If the governing body is not an elected body, any decision to make no investment under subsection 1 or to assess under subsection 2 must first be endorsed by the municipal officers of the municipality or municipalities involved, prior to filing with the commission.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

**4. Notice to commission.** A consumer-owned water utility that chooses to make no investment in water main extensions or service lines under subsection 1 shall notify the commission in writing of the effective date of the decision and shall include the minutes or other record of the decision, including any endorsement required by subsection 3.

[PL 1989, c. 159, §9 (NEW).]

#### SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §B15 (AMD). PL 1989, c. 159, §9 (AMD).

#### §6107. System development charge

**1. System development charge authorized.** In addition to section 6105, the governing body of a consumer-owned water utility may establish and file, pursuant to section 310 or 6104, a system development charge which is just and reasonable to provide funds to finance capital outlays for water system expansion caused by an increase in demand for service.

[PL 1987, c. 490, Pt. B, §16 (AMD).]

**2. Commission review.** If a consumer-owned water utility elects to institute a system development charge, it shall file the proposed charge and a description of the basis of the charge with the commission

not less than 90 days before the effective date of the charge. The commission shall investigate the system development charge under section 1303 to determine whether it is just and reasonable.

[PL 1987, c. 490, Pt. B, §16 (AMD).]

**3. Use of funds.** The funds generated by the system development charge must be deposited into a special account of the consumer-owned water utility dedicated to finance capital outlays for water system expansion caused by an increase in demand for service. The funds from the special account may be used only for the purpose of financing the expansion of the system and may not be used for the repair or replacement of existing facilities unless the replacement is required as a result of increased demand for service. The system development charge may not be treated as income of the consumer-owned water utility nor may it be considered part of the rates established and provided to the commission pursuant to section 6105.

[PL 2013, c. 573, §3 (AMD).]

**4. Assessment of charge.** The system development charge may be assessed upon all customers of the consumer-owned water utility that require new connections to the water system, excluding fire service, as of or after the effective date of that charge and upon all existing customers who substantially expand their demand for water service as of or after the effective date of that charge.

[PL 1987, c. 490, Pt. B, §16 (AMD).]

**5. Water conservation programs.** Before a system development charge may be instituted, the consumer-owned water utility must report to the commission its efforts in implementing water conservation programs. The utility shall state what combination of system development charges and new conservation programs will allow the utility to meet growing demand in the least costly manner.

[PL 1987, c. 490, Pt. B, §16 (AMD).]

**6. Review by elected local officials.** If the governing body is not an elected body, any system development charge proposed under this section must first be endorsed by the municipal officers of the municipality or municipalities involved, prior to filing with the commission.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

## SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §B16 (AMD). PL 2013, c. 573, §3 (AMD).

### §6107-A. Funding for infrastructure improvements for water utilities

Notwithstanding chapter 3, a water utility may fund future infrastructure improvements through recovery in rates and fund completed infrastructure replacement or repairs through the establishment of a surcharge in accordance with this section and rules adopted by the commission. Nothing in this section may be construed to exempt any expenditure by a water utility from review by the commission in accordance with this Title. [PL 2011, c. 602, §4 (NEW).]

**1. Recovery in rates.** A water utility may recover in rates the amounts necessary to fund the future replacement of water system infrastructure. Those funds must be deposited in a capital reserve account. [PL 2011, c. 602, §4 (NEW).]

**2. Commission review of capital reserve account.** A water utility shall provide to the commission an annual accounting of all revenues deposited into and expenditures made from the water utility's capital reserve account. Money in the capital reserve account is not considered unappropriated retained earnings for the purpose of section 6112, subsection 5.

[PL 2011, c. 602, §4 (NEW).]

**3. Infrastructure replacement surcharge.** A water utility may establish and file, pursuant to section 307, a temporary surcharge to allow recovery of the costs of completed replacement or repairs of water system infrastructure. The temporary surcharge may continue until the water utility's next rate

case under chapter 3 or rate filing pursuant to sections 6104 and 6104-A and in accordance with section 6105.

If a water utility elects to institute an infrastructure replacement surcharge pursuant to this subsection, the water utility shall file the proposed surcharge with a justification for the implementation of the surcharge with the commission no less than 30 days before the effective date of the surcharge. The commission may investigate the surcharge in accordance with section 1303 to determine if the surcharge is just and reasonable. If the commission investigates the surcharge, the commission shall make its determination within 75 days of the filing and shall approve the surcharge if it is determined to be just and reasonable and deny the surcharge if it is determined not to be just and reasonable.

[PL 2011, c. 602, §4 (NEW).]

**4. Limitations.** A water utility may not expend amounts collected pursuant to subsection 1 for any purpose other than infrastructure improvements in accordance with this section and rules adopted by the commission.

[PL 2011, c. 602, §4 (NEW).]

**5. Rules.** The commission shall adopt rules to implement this section, including but not limited to rules governing the maximum amount of funds that may be recovered through rates or surcharges under this section, the authorized uses of those funds and reporting requirements and procedures to ensure that this section is being implemented in a manner that is consistent with just and reasonable rate-making principles, including a requirement that utilities submit an infrastructure needs assessment plan when establishing and using a capital reserve account. Rules adopted under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 602, §4 (NEW).]

#### SECTION HISTORY

PL 2011, c. 602, §4 (NEW).

#### §6108. State contributions

The management and allocation by a consumer-owned water utility of a state contribution of funds made prior to January 1, 1989, under Title 38, section 568, and its income, shall not be subject to investigation or review by the commissioner included under section 310, 1302 or 1303 except upon request by the Department of Environmental Protection. [PL 1987, c. 889 (NEW).]

#### SECTION HISTORY

PL 1987, c. 889 (NEW).

#### §6109. Sale of land by consumer-owned water utility

The following provisions govern the sale or transfer by a consumer-owned water utility of land or property owned by that water utility for the purposes of providing a source of supply, storing water or protecting sources of supply or water storage, including reservoirs, lakes, ponds, rivers and streams, land surrounding or adjoining reservoirs, lakes, ponds, rivers or streams, wetlands and watershed areas. [PL 1989, c. 685 (NEW); PL 1989, c. 733, §1 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

**1. Notice of proposed sale.** A consumer-owned water utility shall, at least 8 months prior to the sale of land under this section, give notice of that proposed sale to the commission. The utility shall provide additional notice as prescribed by rule by the commission as follows.

A. Notice must be given to the municipality or municipalities where the land is located. [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

B. One notice must be given to each of the customers of the consumer-owned water utility in a manner prescribed by the commission. [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

C. Notice must be published in a newspaper of general circulation in the area encompassed by the consumer-owned water utility. [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]  
[PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

**2. Time of sale.** Land subject to the provisions of this section may not be sold within the first 8 months after notice of the proposed sale has been given to the commission unless all or part of that time period is waived by the commission for good cause shown.  
[PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

**3. Sale at a price below market value.** The trustees of a consumer-owned water utility may sell land to the State, an agency of the State, a municipality or other governmental body, or a private nonprofit organization at a price below market value. Land purchased under this subsection must be used for:

- A. The purposes of retaining or protecting the natural scenic or open-space values of the property; [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]
- B. Assuring the availability of the property for recreational or open-space use; [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]
- C. Protecting natural resources; or [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]
- D. Maintaining or enhancing air or water quality. [PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

The sale of consumer-owned water utility land pursuant to this subsection may not be considered unreasonable or imprudent solely by reason of its sale at a price below market value.  
[PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

**4. Rules.** The commission may promulgate rules to implement this section, including, but not limited to, rules governing the authority of the ratepayers of the consumer-owned water utility to endorse or prohibit the sale of land by a consumer-owned water utility under this section and to prohibit or endorse any condition of that sale.  
[PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

**5. Right of first refusal.** The municipality in which the land is located shall have the right of first refusal to purchase any land that lies within that municipality's boundaries and is offered for sale under this section. That right is assignable by the municipality.  
[PL 1989, c. 685 (NEW); PL 1989, c. 878, Pt. F, §4 (RPR).]

#### SECTION HISTORY

PL 1989, c. 685 (NEW). PL 1989, c. 733, §1 (NEW). PL 1989, c. 878, §F4 (RPR).

#### §6109-A. Lease of property by consumer-owned water utility

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

- A. "Charter" has the same meaning as set forth in section 6402, subsection 1. [PL 2003, c. 267, §1 (NEW).]
- B. "Consumer-owned water utility" has the same meaning as set forth in section 6101, subsection 1-A. [PL 2003, c. 267, §1 (NEW).]

[PL 2003, c. 267, §1 (NEW).]

**2. Agreements authorized.** Notwithstanding any provision to the contrary in its charter, a consumer-owned water utility may enter into a lease and leaseback transaction with respect to some or all of its real or personal property, other than land, and may take all other action necessary or desirable, including, but not limited to, the granting of mortgages and liens, to effectuate the transaction. For

purposes of this subsection, "lease" includes a lease of any length, including leases that may be defined as sales for income tax purposes.

[PL 2003, c. 267, §1 (NEW).]

## SECTION HISTORY

PL 2003, c. 267, §1 (NEW).

### §6109-B. Contracts for large-scale extraction and transportation of water

Except as provided in subsection 5, this section governs any contract or agreement between a consumer-owned water utility and another entity that involves the large-scale extraction of water and the large-scale transportation of water. [PL 2009, c. 37, §1 (NEW).]

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

A. "Large-scale extraction of water" means the extraction of water that is required to be permitted, certified, reported or approved pursuant to:

- (1) The in-stream flow provisions of Title 38, section 470-H;
- (2) The requirements for significant groundwater wells under Title 38, section 480-B;
- (3) The site location of development law requirements for a development of state or regional significance that may substantially affect the environment as provided in Title 38, section 482, subsection 2; or
- (4) The water withdrawal reporting program under Title 38, chapter 3, subchapter 1, article 4-B. [PL 2009, c. 37, §1 (NEW).]

B. "Large-scale transportation of water" means the transportation of water for commercial purposes by pipeline or other conduit or by tank vehicle or in a container, greater in size than 10 gallons, beyond the boundaries of the municipality or township in which the water is naturally located or of any bordering municipality or township. [PL 2013, c. 381, Pt. B, §31 (AMD).]

[PL 2013, c. 381, Pt. B, §31 (AMD).]

**2. Public meeting required.** A consumer-owned water utility may not enter into a contract or agreement subject to this section until at least 30 days after holding a public meeting on the proposed contract or agreement in accordance with this subsection. The public meeting must include:

A. A presentation by the consumer-owned water utility of the terms and conditions of the proposed contract or agreement and the criteria to be used by the utility to decide whether to enter into the contract or agreement; and [PL 2009, c. 37, §1 (NEW).]

B. An opportunity for public comment on the proposed contract or agreement. [PL 2009, c. 37, §1 (NEW).]

[PL 2009, c. 37, §1 (NEW).]

**3. Public notice required.** The consumer-owned water utility shall, at least 30 days prior to the public meeting required under subsection 2, give written notice of the public meeting and the proposed contract or agreement in accordance with this subsection. The notice must include the date, time, place and purpose of the meeting.

A. The consumer-owned water utility shall give one written notice to each of its customers. [PL 2009, c. 37, §1 (NEW).]

B. The consumer-owned water utility shall give written notice to the commission, the Office of the Public Advocate and the municipality or municipalities where the source of water is located. [PL 2009, c. 37, §1 (NEW).]

C. The consumer-owned water utility shall publish one notice in a newspaper of general circulation in the area served by the consumer-owned water utility. [PL 2009, c. 37, §1 (NEW).]  
[PL 2009, c. 37, §1 (NEW).]

**4. Copy available for inspection.** Prior to the public meeting required under subsection 2, the consumer-owned water utility shall make available for public inspection a copy of the proposed contract or agreement.  
[PL 2009, c. 37, §1 (NEW).]

**5. Exceptions.** This section does not apply to a contract or agreement between a consumer-owned water utility and another entity that involves the large-scale extraction of water and the large-scale transportation of water when:

A. The entity entering into a contract or agreement with the consumer-owned water utility is:

- (1) An existing customer of the consumer-owned water utility; or
- (2) A water utility; or [PL 2009, c. 37, §1 (NEW).]

B. The large-scale transportation of water meets the exceptions provided in Title 22, section 2660-A, subsection 2, paragraph B, C or D. [PL 2009, c. 37, §1 (NEW).]  
[PL 2009, c. 37, §1 (NEW).]

**6. Rulemaking.** The commission may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
[PL 2009, c. 37, §1 (NEW).]

#### SECTION HISTORY

PL 2009, c. 37, §1 (NEW). PL 2013, c. 381, Pt. B, §31 (AMD).

#### **§6110. Injunctive relief for violations of municipal shoreland zoning ordinances**

Pursuant to Title 38, section 444-A, any water utility may commence a civil action for a violation of municipal shoreland zoning ordinances. [PL 1989, c. 878, Pt. F, §5 (NEW).]

#### SECTION HISTORY

PL 1989, c. 878, §F5 (NEW).

#### **§6111. Liens on multi-unit residential rental property (REPEALED)**

#### SECTION HISTORY

RR 1991, c. 1, §49 (COR). PL 1991, c. 136 (NEW). PL 1991, c. 221, §2 (NEW). PL 2005, c. 7, §1 (RP).

#### **§6111-A. Liens for unpaid rates; multiunit residential rental property**

**1. Liens for unpaid rates; water utilities.** A water utility has a lien on real estate served by that water utility to secure the payment of unpaid rates.  
[PL 2011, c. 97, §1 (AMD).]

**2. Rental property; water utilities.** Notwithstanding section 706, when a landlord has applied for and is granted water utility service to a multiunit residential rental property, the water utility has a lien on the property and on any interest the landlord has in the multiunit residential rental property to secure payment for the water utility's service to that property with costs and with interest at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.  
[PL 2005, c. 7, §2 (NEW).]

**3. Method and procedure.** The method for obtaining, enforcing and receiving payment on a lien created under this section must be performed in the same manner and has the same effect and creates the same rights as provided in Title 38, section 1208 pertaining to the collection of unpaid rates by a sanitary district, except that a sanitary district lien created under Title 38, section 1208 continues with priority over a lien created under this section. The notice of impending automatic foreclosure must be substantially in the following form:

STATE OF MAINE  
(insert name of water utility)  
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE  
WATER LIEN  
Title 35-A M.R.S.A., section 6111-A

IMPORTANT: DO NOT DISREGARD THIS NOTICE  
YOU WILL LOSE YOUR PROPERTY UNLESS  
YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH  
A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE  
(insert name of water utility)

TO: .....

You are the party named on the Water Lien Certificate filed on ....., 20. and recorded in Book ....., Page ..... in the ..... County Registry of Deeds. This (insert name of water utility) filing created a lien mortgage on the real estate described in the Water Lien Certificate.

On ....., 20..., the water lien mortgage will be foreclosed and your right to redeem the mortgage and recover your property by paying the charges and interest of the (insert name of water utility) that are owed will expire.

IF THE LIEN FORECLOSES,  
THE (insert name of water utility) WILL OWN  
YOUR PROPERTY, SUBJECT ONLY TO  
SANITARY DISTRICT AND MUNICIPAL TAX LIENS.

If you cannot pay the outstanding charges, costs and interest that are the subject of this notice or the subject of installment payment arrangements that you have made with the (insert name of water utility), please contact me immediately to discuss this notice.

.....  
(insert name of water utility) Treasurer

[PL 2005, c. 7, §2 (NEW).]

**4. Waiver of water lien foreclosure.** The treasurer of a water utility, when authorized by the trustees or directors of the utility, may waive the foreclosure of a lien mortgage created pursuant to this section by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the lien mortgage has expired. The lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate, toll, rent

or other charges are not affected by the filing of a waiver under this section. The waiver of foreclosure must be substantially in the following form:

The foreclosure of the water lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF WATER UTILITY) dated ..... and recorded in the ..... County Registry of Deeds in Book ....., Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the water utility and notarized. A copy of the form must be provided to the party named on the lien mortgage and each record holder of a mortgage on the real estate.

[PL 2011, c. 97, §2 (AMD).]

#### SECTION HISTORY

PL 2005, c. 7, §2 (NEW). PL 2009, c. 490, §1 (AMD). PL 2011, c. 97, §§1, 2 (AMD).

#### **§6111-B. Landlord access to tenant bill payment information**

If a tenant is billed for water utility service provided to property rented by the tenant and nonpayment for the service may result in a lien against the property, the utility shall provide to the landlord or the landlord's agent, on request of the landlord or the landlord's agent, the current status of the tenant's account, including any amounts due or overdue. [PL 2005, c. 306, §2 (NEW).]

#### SECTION HISTORY

PL 2005, c. 306, §2 (NEW).

#### **§6111-C. Disconnection of water service for nonpayment of sewer services**

Except as provided in subsection 4, this section applies to any consumer-owned water utility that is authorized to provide sewer services, notwithstanding any provision in its charter. Notwithstanding any other provision of law, in the event a user of the consumer-owned water utility's sewer system fails within a reasonable time to pay the utility's rates, fees or charges for sewer service, the utility may disconnect water service to the user, as long as the disconnection is accomplished in accordance with procedures established in applicable law or rules governing disconnection of utility services and terms and conditions approved by the commission. In order to exercise this authority, the utility must apply to the commission and the commission must approve terms and conditions consistent with the requirements of this section. [PL 2009, c. 541, §1 (NEW).]

**1. Annual filings.** The terms and conditions under this section must include a requirement that the consumer-owned water utility annually file with the commission a report that includes:

A. The total number of each of the following over the preceding 12 months:

- (1) Disconnection notices issued;
- (2) Disconnections completed; and
- (3) Reconnections of disconnections; and [PL 2009, c. 541, §1 (NEW).]

B. The reason for each disconnection. [PL 2009, c. 541, §1 (NEW).]  
[PL 2009, c. 541, §1 (NEW).]

**2. Assistance program information.** The terms and conditions under this section must include a requirement that the consumer-owned water utility provide to customers to whom the utility sends disconnection notices information about available assistance programs, including programs that offer assistance in paying for sewer or water service, programs that offer assistance in paying for other utility services or in paying for heating fuel or similar assistance programs that could provide sufficient support to the customer to allow the customer to pay the utility's rates, fees or charges for sewer service. [PL 2009, c. 541, §1 (NEW).]

**3. Limitations.** The terms and conditions under this section must prohibit:



A. A disconnection based solely on a customer's nonpayment of a fee or charge for estimated sewer service usage; and [PL 2009, c. 541, §1 (NEW).]

B. A disconnection of a multiunit rental facility greater than 2 units unless the owner of the facility occupies a unit that would be subject to the disconnection. [PL 2009, c. 541, §1 (NEW).]  
[PL 2009, c. 541, §1 (NEW).]

**4. Exception.** Subsection 3, paragraph B does not apply to a consumer-owned water utility that has authority pursuant to its charter to disconnect water service in the event a user of the consumer-owned water utility's sewer system fails to pay the utility's rates, fees or charges for sewer service, provided the charter provision establishing that authority was enacted prior to August 1, 2010.  
[PL 2009, c. 541, §1 (NEW).]

## SECTION HISTORY

PL 2009, c. 541, §1 (NEW).

### §6112. Contingency allowance

**1. Annual contingency allowance.** A consumer-owned water utility may provide for an annual contingency allowance by including in rates the amounts as follows:

A. For a utility with total annual revenues up to \$85,000, an amount up to 10% of the revenues required to operate the utility; and [PL 2003, c. 529, §2 (NEW).]

B. For a utility with total annual revenues in excess of \$85,000, an amount up to 5% of the revenues required to operate the utility. [PL 2003, c. 529, §2 (NEW).]  
[PL 2003, c. 529, §2 (AMD).]

**2. Contingency reserve fund maximum.**  
[PL 2003, c. 529, §2 (RP).]

**3. Use of contingency reserve fund.**  
[PL 2003, c. 529, §2 (RP).]

**3-A. Authorized uses; commission review.** This section does not:

A. Authorize a consumer-owned water utility to expend amounts collected pursuant to this section for any purposes other than those allowed under this Title; or [PL 2003, c. 529, §2 (NEW).]

B. Exempt any expenditures from review by the commission in accordance with this Title. [PL 2003, c. 529, §2 (NEW).]  
[PL 2003, c. 529, §2 (NEW).]

**4. Transition.**  
[PL 2003, c. 529, §2 (RP).]

**5. Commission review.** If the commission determines that the consumer-owned water utility has accumulated in its unappropriated retained earnings account an amount that is inconsistent with just and reasonable rates, the commission may, pursuant to chapter 13, order the utility to reduce its rates to the appropriate level either in the form of temporary rate adjustments, credits or reduction in rates.  
[PL 2003, c. 529, §2 (AMD).]

**6. Public hearing on excesses.** If a consumer-owned water utility in each of 3 consecutive years collects through rates under subsection 1 an amount, in the case of a utility with up to \$85,000 total annual revenues, greater than 10% of the utility's annual operating expenses or, in the case of a utility with greater than \$85,000 total annual revenues, an amount equal to or greater than 7% of the utility's total annual operating expenses, the water utility shall:

A. No later than July 1st of the calendar year following the end of the 3rd consecutive year of over-collection, notify all of its customers in writing of the over-collection and of the time and place where the utility will hold a public hearing on the matter; and [PL 2003, c. 529, §2 (AMD).]

B. Hold a public hearing no less than 10 days and no more than 30 days after sending the notice required under paragraph A. During the hearing the water utility shall:

(1) Detail the extent of the over-collection;

(2) Provide opportunity for any customer to testify or question the officials on any matter relating to the utility's financial situation; and

(3) Explain and provide copies of the provisions of section 1302 and section 6104, subsection 7. [PL 1991, c. 221, §2 (NEW).]

[PL 2003, c. 529, §2 (AMD).]

## SECTION HISTORY

RR 1991, c. 1, §49 (RNU). PL 1991, c. 221, §2 (NEW). PL 2003, c. 529, §2 (AMD).

### §6113. Water supply protection fund

**1. Water supply protection fund.** A consumer-owned water utility may establish a water supply protection fund to which a sum may be credited annually from surplus funds. The annual credit may not exceed 5% of the prior year's total revenue.

[PL 2003, c. 529, §3 (AMD).]

**2. Water supply protection fund maximum.** Except as provided in subsections 5 and 7, the maximum amount that may be accumulated in a water supply protection fund is 15% of the most recent year's annual revenue of the utility or \$100,000, whichever is greater. When the water supply protection fund is at the maximum amount permitted, credit may not be made to the fund from surplus funds.

[PL 1993, c. 30, §1 (NEW).]

**3. Use of water supply protection fund.** Except as provided in subsection 4, a water supply protection fund may be used by a consumer-owned water utility only for the protection of a public water supply in accordance with this subsection. A consumer-owned water utility may use a water supply protection fund to acquire interests in real property reasonably necessary for the protection of the public water supply, including, but not limited to, the acquisition of conservation easements, access easements, other permanent interests in land or long-term leases of at least 99 years. A consumer-owned water utility may also use a water supply protection fund to assist a holder in acquiring a fee interest in real property or a conservation easement if that acquisition is reasonably likely to result in or contribute to the protection of a public water supply. If a consumer-owned water utility assists a holder in acquiring a conservation easement and the utility does not acquire through the transaction a fee interest in the property, consumer-owned water utility shall obtain a 3rd-party right of enforcement with respect to that easement. If a consumer-owned water utility assists a holder in acquiring a fee interest in real property, the utility shall acquire a conservation easement unless the holder conveys a conservation easement to another holder, in which case the utility shall obtain a 3rd-party right of enforcement with respect to that conservation easement. For purposes of this subsection, "protection of public water supply" includes watershed protection, groundwater protection or wellhead protection reasonably necessary to minimize the potential for contamination of the consumer-owned water utility's water supply. If the consumer-owned water utility has adopted a watershed control program pursuant to 40 Code of Federal Regulations, Section 141.71 and that program has been approved by the Department of Health and Human Services, any expenditures from the water supply protection fund pursuant to this section for the purposes of watershed protection must be in conformity with that watershed control program. For purposes of this subsection, "conservation easement" has the same meaning as in Title 33, section 476, subsection 1; "holder" has the same meaning as in Title 33, section 476, subsection 2; and "3rd-party right of enforcement" has the same meaning as in Title 33, section 476, subsection 4.

[PL 2023, c. 137, §1 (AMD).]

**4. Withdrawal of money from the fund.** A consumer-owned water utility that has accumulated money in its water supply protection fund may remove money from the fund and return that money to the unappropriated retained earnings account if the utility determines that the removal would be in the best interest of the utility's customers.

[PL 1993, c. 30, §1 (NEW).]

**5. Commission review.** If a consumer-owned water utility needs to accumulate more than the maximum amount allowed in the water supply protection fund to acquire interests as provided in subsection 3, the utility shall obtain the approval of the commission before any sum may be allotted to the fund that would cause the fund to exceed the maximum.

[PL 1993, c. 30, §1 (NEW).]

**6. Accounting treatment of fund.** Money in a water supply protection fund is not considered unappropriated retained earnings for the purpose of section 6112, subsection 5, nor is such money considered in determining reasonable revenue requirements under section 310 or 6104.

[PL 1993, c. 30, §1 (NEW).]

**7. Interest.** Except as provided in subsection 4, interest earned on money in a water supply protection fund must remain in the fund and be used solely for the purposes of the fund, notwithstanding the maximum amount permitted in the fund.

[PL 1993, c. 30, §1 (NEW).]

#### SECTION HISTORY

PL 1993, c. 30, §1 (NEW). PL 2003, c. 529, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2023, c. 137, §1 (AMD).

#### §6114. Exemption from requirements

The commission may grant exemptions from portions of this Title to individual consumer-owned water utilities or a class of consumer-owned water utilities in accordance with this section. An exemption granted under this section must be granted pursuant to standards and procedures adopted by the commission by rule. [PL 2013, c. 573, §4 (NEW).]

**1. General standards.** In order to grant an exemption, the commission must make specific findings that the exemption is in the public interest, will not result in unjust or unreasonable rates and will not have a negative impact on the provision of safe, adequate and reliable service and that the affected consumer-owned water utility or class of consumer-owned water utilities has the adequate technical, financial and administrative capacity to perform the waived function or requirement.

[PL 2013, c. 573, §4 (NEW).]

**2. Initiation of exemption.** The commission shall consider an exemption to an individual consumer-owned water utility at the request of a consumer-owned water utility. The commission shall require the consumer-owned water utility to notify its customers and hold a public hearing before approving the request for exemption. The commission may, on its own motion, grant an exemption to a class of consumer-owned water utilities. The commission shall adopt by rule standards and procedures for granting an exemption to a class of consumer-owned water utilities.

[PL 2013, c. 573, §4 (NEW).]

**3. Exceptions.** The commission may not a grant an exemption under this section from any of the following sections of this Title:

A. Section 116; [PL 2013, c. 573, §4 (NEW).]

B. Section 301, subsections 1 to 3; [PL 2013, c. 573, §4 (NEW).]

C. Section 309, subsection 1; [PL 2013, c. 573, §4 (NEW).]

- D. Section 501; [PL 2013, c. 573, §4 (NEW).]
  - E. Section 502; [PL 2013, c. 573, §4 (NEW).]
  - F. Section 702; [PL 2013, c. 573, §4 (NEW).]
  - G. Section 709; [PL 2013, c. 573, §4 (NEW).]
  - H. Section 712; [PL 2013, c. 573, §4 (NEW).]
  - I. Section 1101; [PL 2013, c. 573, §4 (NEW).]
  - J. Section 1302; [PL 2013, c. 573, §4 (NEW).]
  - K. Section 6105; [PL 2013, c. 573, §4 (NEW).]
  - L. Section 6109; [PL 2013, c. 573, §4 (NEW).]
  - M. Section 6109-B; [PL 2013, c. 573, §4 (NEW).]
  - N. Section 6111-C; and [PL 2013, c. 573, §4 (NEW).]
  - O. Section 6112. [PL 2013, c. 573, §4 (NEW).]
- [PL 2013, c. 573, §4 (NEW).]

**4. Consumer assistance and safety division.** The commission shall ensure that customers of consumer-owned water utilities retain access to the services provided by the consumer assistance and safety division within the commission.

[PL 2015, c. 8, §7 (AMD).]

**5. Rescission.** The commission shall establish by rule a process by which:

A. Customers of a consumer-owned water utility may petition the commission to rescind an exemption granted under this section to an individual consumer-owned water utility or to a class of consumer-owned water utilities; and [PL 2013, c. 573, §4 (NEW).]

B. The commission may on its own motion rescind an exemption granted under this section to an individual consumer-owned water utility or to a class of consumer-owned water utilities. [PL 2013, c. 573, §4 (NEW).]

A rescission may be in whole or in part and may be specific to an individual consumer-owned water utility.

[PL 2013, c. 573, §4 (NEW).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 573, §4 (NEW).]

## SECTION HISTORY

PL 2013, c. 573, §4 (NEW). PL 2015, c. 8, §7 (AMD).

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