

## CHAPTER 202

### CLOSING AND DISPOSITION OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL BUILDINGS

#### §4101. Definitions

For the purposes of this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 422, §17 (NEW).]

**1. School board.** "School board" includes boards of directors within school administrative districts, school committees within other types of school administrative units and cooperative boards within career and technical education regions. It also includes trustees of special school districts, as defined in section 1, subsection 34.  
[PL 1991, c. 716, §6 (AMD); PL 2003, c. 545, §5 (REV).]

**2. School building.** "School building" means, but is not limited to, any real property or structure used or useful for schools and playgrounds, including facilities for physical education.  
[PL 1983, c. 422, §17 (NEW).]

**3. School year.** "School year" is the fiscal year commencing on July 1st and ending on June 30th.  
[PL 1983, c. 422, §17 (NEW).]

#### SECTION HISTORY

PL 1983, c. 422, §17 (NEW). PL 1991, c. 716, §6 (AMD). PL 2003, c. 545, §5 (REV).

#### §4102. Closing of a school building

The closing of a school building by a school administrative unit may only occur under the following conditions. [PL 1983, c. 422, §17 (AMD).]

**1. Replaced by new building.** The school building has been replaced by other school buildings as part of a school construction project that has been approved by the state board or the commissioner in accordance with chapter 609.  
[PL 1999, c. 206, §3 (AMD).]

**2. Condemned.** The school building has been condemned and ordered closed by local or state officials for health and safety reasons.  
[PL 1983, c. 422, §17 (AMD).]

**3. Lack of need.** The building has been deemed to be unnecessary or unprofitable to maintain by the governing body of the administrative unit. Before a building may be closed under this subsection, a report shall be filed with the commissioner. The report shall contain, at a minimum, the following:

A. Projection of the number of students in the affected area over the next 5 school years, including a projection of the educational programs which they will need; [PL 1983, c. 422, §17 (NEW).]

B. Manner in which the continuation of the educational programs for the affected students will be provided; [PL 1983, c. 422, §17 (NEW).]

C. Effective date on which the closing will take place; [PL 1983, c. 422, §17 (NEW).]

D. Projection of additional transportation or other related services; [PL 1983, c. 422, §17 (NEW).]

E. Existence of any other outstanding financial commitments, including debt service, related to the school building along with a retirement schedule of payments to meet the commitments; [PL 1983, c. 422, §17 (NEW).]

- F. Proposed disposition of the school building; [PL 1983, c. 422, §17 (NEW).]
- G. Financial impact of closing the school building; and [PL 1983, c. 422, §17 (NEW).]
- H. Statement of reasons why the school building is being closed. [PL 1983, c. 422, §17 (NEW).]  
[PL 1983, c. 422, §17 (NEW).]

**4. Voter approval.** Before a school board may close a school building pursuant to subsection 3, voter approval shall be obtained as follows.

A. Elementary schools in school administrative districts, regional school units and community school districts may only be closed if approved by the voters in accordance with the procedures set out in section 1512 for regional school units. [PL 2011, c. 171, §7 (AMD).]

B. Secondary schools in school administrative districts, regional school units and community school districts may be closed only if approved by the voters in accordance with the procedures set out in section 1512 for regional school units.

[PL 2011, c. 171, §7 (AMD).]

B-1. Elementary or secondary schools in school administrative units that are not school administrative districts, regional school units or community school districts may be closed without voter approval, unless the school board is presented with a written petition, within 30 days of the board's decision to close the school, by 10% of the number of voters in the school administrative unit who voted at the last gubernatorial election, in which case a special referendum must be called pursuant to:

- (1) Section 1351 for school administrative districts;
- (2) Title 30-A, sections 2528 to 2532, for community school districts, except the school board shall issue a warrant specifying that the municipalities within the district place the petitioned article on the ballot, and shall prepare and furnish the required number of ballots for carrying out the election; and
- (3) Title 21-A and Title 30-A, respectively, for cities and towns. [PL 2011, c. 171, §7 (NEW).]

C. The article to be used shall be substantially in the following form:

"Article: Shall the school committee of ..... (name of town) (the board of directors of School Administrative District No. ....) be authorized to close ..... (name of school)?

Yes..... No.....

The additional cost of keeping the school open has been estimated by the school committee (board of directors) to be \$ ..... ." [PL 1983, c. 422, §17 (NEW).]  
[PL 2011, c. 171, §7 (AMD).]

**SECTION HISTORY**

PL 1983, c. 422, §17 (NEW). PL 1985, c. 161, §2 (AMD). PL 1987, c. 737, §§C53,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1999, c. 206, §3 (AMD). PL 2007, c. 240, Pt. XXXX, §23 (AMD). PL 2007, c. 539, Pt. C, §1 (AMD). PL 2007, c. 539, Pt. C, §23 (AFF). PL 2007, c. 599, §1 (AMD). PL 2007, c. 599, §3 (AFF). PL 2011, c. 171, §§7, 8 (AMD).

**§4103. Disposal or other use of real property closed for school purposes**

The following shall control the disposition or other use of school buildings which have been closed pursuant to section 4102. [PL 1983, c. 422, §17 (NEW).]

**1. Control.** The school building shall remain under the control of the school board. [PL 1983, c. 422, §17 (NEW).]

**2. Lease, use of proceeds.** The school board may lease the building for its fair rental value if there is a reasonable likelihood that the building will be needed again for educational purposes.

A. Leases not to exceed 4 years may be entered and may be renewed at the end of any lease period if the school board determines there is still a reasonable likelihood that the building will be needed again for educational purposes. [PL 1983, c. 422, §17 (NEW).]

B. The proceeds from the lease shall be used in the following order:

(1) To cover the maintenance costs on the building;

(2) To reduce any outstanding indebtedness on the building; and

(3) To meet educational expenses which have been approved by the legislative body of the administrative unit in the ordinary budgetary process. [PL 1983, c. 422, §17 (NEW).]

C. Any renovations to a leased building shall be compatible with its reuse as a school building. [PL 1983, c. 422, §17 (NEW).]  
[PL 1983, c. 422, §17 (NEW).]

**3. Transfer to municipality.** The school board may transfer control or ownership of the building which does not have any anticipated use as a school building to the municipal officers or inhabitants of the town or towns.

A. The receiving town or towns, if they accept the transfer, shall be liable for any outstanding indebtedness. [PL 1983, c. 422, §17 (NEW).]

B. If the receiving town or towns are part of a school administrative district or a community school district, then:

(1) If the building had been transferred by the town or towns to the district, the district may require the town or towns to pay the district any debt service expended on the building by the district over the 5 school years prior to the transfer of the building to the town or towns, minus their apportionment of that debt service; or

(2) If the building had been constructed by the district, the district may require the receiving town or towns to pay the district a sum equal to the fair market value of the building, minus the town or town's apportioned share in the building, to be determined in accordance with the cost-sharing formula in effect at the time of the transfer. [PL 1983, c. 422, §17 (NEW).]

C. Notwithstanding any other provision of law, the receiving town or towns may use the building for municipal purposes. [PL 2001, c. 586, §1 (NEW).]  
[PL 2001, c. 586, §1 (AMD).]

**4. Sale of school building.** The school board of the school administrative unit may sell the school building on the open market if it determines that it will have no future use for the building and they have offered to transfer control or ownership to the municipal officers of the town or towns in which the building is located and the municipal officers have not accepted the transfer of control or ownership to the municipal officers or the inhabitants of the town or towns. If the school board is unable to sell the school building on the open market after a reasonable period of time, not to exceed 2 years, then it may attempt to sell the building through sealed bids.

A. Sealed bids shall be solicited a minimum of 60 days prior to being opened. Appropriate notices shall be published in local news media. [PL 1983, c. 422, §17 (NEW).]

B. The proceeds from the sale of the building shall be disbursed in accordance with section 4104. [PL 1983, c. 422, §17 (NEW).]

C. The school board of a school administrative unit may convey title to any and all school buildings, regardless of whether they are held in the names of the inhabitants of a municipality, a school administrative district, a community school district, a career and technical education region or a union school. [RR 1991, c. 2, §58 (COR); PL 2003, c. 545, §5 (REV).]  
[RR 1991, c. 2, §58 (COR); PL 2003, c. 545, §5 (REV).]

**5. Demolition of building.** If the school committee or board of directors determines that it has no future use for a building, if it determines the property could be better used for other educationally related purposes without the building and if the legislative body of the unit approves, the school committee or board of directors may demolish the building on the site and retain the site. The school board may also demolish the building if it has been condemned by local or state officials for health and safety reasons, regardless of whether the site will be retained or sold.  
[PL 1983, c. 422, §17 (NEW).]

#### SECTION HISTORY

PL 1983, c. 422, §17 (NEW). RR 1991, c. 2, §58 (COR). PL 2001, c. 586, §1 (AMD). PL 2003, c. 545, §5 (REV).

#### §4104. Proceeds from sale of school building

The proceeds from the sale of school buildings, which were not transferred pursuant to section 4103, subsection 3, shall be utilized in the following manner. [PL 1983, c. 422, §17 (NEW).]

**1. General.** If the school building was built by the administrative unit, then the proceeds shall be used solely for educational purposes as approved by the unit's legislative body in the normal budgetary approval process.  
[PL 1983, c. 422, §17 (NEW).]

**2. School administrative district and community school district.** If the building was transferred by a member town to a school administrative district or a community school district, the proceeds of the sale, minus any expenses related to the sale or any outstanding indebtedness, shall be credited to the town in which the facility is located and shall be used to offset the town's share of the educational expenses for the district. If the school administrative district or the community school district has made major renovations or additions which meet the definition of a school construction project, as set forth in section 15901, subsection 4, the town shall be credited with only those proceeds of the sale which are attributable to the appraised value of the original school building at the time of the sale.  
[PL 1983, c. 422, §17 (NEW).]

**3. Outstanding indebtedness.** If a building has outstanding indebtedness, then the proceeds of its sale shall be used to retire the unit's debt service on the building and the balance of the proceeds shall be placed in a sinking fund to reduce future debt service payments. Any balance of the proceeds after the debt has been retired may be used in accordance with the conditions set forth in subsections 1 and 2.  
[PL 1983, c. 422, §17 (NEW).]

**4. Part of school construction project.** If the school building has been replaced by a new building as part of a school construction project, the proceeds from the sale or lease of the building shall be used to retire the debt service on the new building, unless the property has been transferred pursuant to subsection 2.  
[PL 1983, c. 422, §17 (NEW).]

#### SECTION HISTORY

PL 1983, c. 422, §17 (NEW).

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