

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of MACHIAS
~~Town~~
~~Village~~

Local Law No. 1 of the year 1990

A local law "RELATING TO THE DEFENSE AND INDEMNIFICATION OF TOWN OFFICERS.....
AND EMPLOYEES" (Insert title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~
~~City~~ of MACHIAS as follows:
~~Town~~
~~Village~~

SECTION 1. Legislative intent. The purpose of this local law is provide legal and financial protection for those individuals serving the Town of Machias, from losses which may be brought against them in their individual capacity for actions taken while in the performance of their official duties and responsibilities. In enacting this local law, the Town Board finds that the State of New York has enacted similar provisions for the legal and financial security of its officers and employees and further finds that such security is also required for local personnel. By enactment of this local law, the Town Board does not intend to limit or otherwise abrogate any existing right or responsibility of the Town or its employees with regard to indemnification or legal defense. It is solely the intent of this local law to provide similar coverage for local employees as is presently provided for state employees, so as to continue to attract qualified individuals to local government service.

SECTION 2. As used in this local law, unless the context otherwise requires the term "employee" shall mean any person holding a position by election, appointment or employment in the service of the Town of Machias, whether or not compensated, or a volunteer expressly authorized to participate in a municipally-sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative.

SECTION 3. (a) Upon compliance by the employee with the provisions of subdivision five of this local law, the Town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States Code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Town of Machias.

(If additional space is needed, please attach sheets of the same size as this and number each)

(c) Upon entry of a final judgment against the employee or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement upon the Supervisor; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such Supervisor. If the attorney concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the town treasurer.

SECTION 5. The duty to defend or indemnify and save harmless provided by this local law shall be conditioned upon (1) delivery to the town attorney or his assistant, at his office, by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he is served with such document; and (2) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the state based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the town provide for his defense pursuant to this local law.

SECTION 6. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the Worker's Compensation Law.

SECTION 7. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

SECTION 8. The provision of this section shall apply to all actions and proceedings pending upon the effective date thereof or there after instituted.

SECTION 9. Except as otherwise specifically provided in this local law shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Town (meaning all employees to be covered are members of the Town Board, Town Clerk, Justices of the Peace and Highway Superintendent) or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

SECTION 10. If any provision of this local law or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way effect or impair any other provision of this section or the application of any other person or circumstance.

SECTION 11. This local law shall take effect immediately upon filing with the Secretary of State.