

# BYLAWS OF THE MAINE ASSOCIATION OF REALTORS® FOUNDATION

Adopted on May 17, 1989 by the Board of Directors of the Maine Association of REALTORS®

Amended:

April 10, 1992

June 8, 1998

March 1, 2001

October 1, 2001

September 12, 2002

December 7, 2005

November 2, 2006

## ARTICLE I – NAME, PURPOSE AND LIMITATIONS

### Section 1. Name

The name of this organization shall be the Maine Association of REALTORS® Foundation, Incorporated, hereinafter referred to as the “Foundation”.

### Section 2. Purpose

The purpose of the Foundation shall be to facilitate and increase housing opportunities in Maine by all necessary and proper means including without limitation, promoting the availability of affordable, adequate, safe and decent housing to the citizens of Maine; supporting education and research in housing issues, problems and opportunities; providing technical assistance to groups seeking to deal with housing issues and needs, and engaging in activities intended to enhance the ability of Maine citizens to secure housing. In addition, in extraordinary circumstances where a significant housing crisis may exist due to acts of war, terrorism, or natural disaster provide housing related assistance outside of Maine.

Notwithstanding any other provision of these articles, the Foundation shall not carry on any other activities not permitted by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

### Section 3. Limitations

The Foundation shall not issue any shares of stock, nor declare or pay dividends. No part of the net earning of the corporation shall inure to the benefit of any member, officer, director or private individual. None of the activities, funds, property, or income of the Foundation shall be used in carrying on any political activity, directly or indirectly, or in attempting to influence legislation. Neither the corporation nor its officers or directors shall, as such, contribute to or otherwise support or assist any political party or candidate for elective public office.

## ARTICLE II – PRINCIPAL OFFICE AND RESIDENT AGENT

The Foundation shall have its principal office in the State of Maine at the state headquarters of the Maine Association of REALTORS® and may conduct its activities at any place or places in the United States or elsewhere as the Board of Directors may from time to time consider necessary or desirable. The Foundation shall have in the State of Maine at all times a designated agent authorized to accept service of process for the corporation. Notice served upon the Executive Director, who also serves as Secretary, (or the Treasurer) as such agent, or mailed to such agent at such business address, shall be deemed service upon or notice to the Foundation.

## ARTICLE III – DIRECTORS

### Section 1. Powers

The property, affairs and activities of the Foundation shall be managed and controlled by the Board of Directors.

### Section 2. Number

The Board shall consist of fifteen directors. The President of the Maine Association of REALTORS® and the Chief Executive Officer of the Maine Association of REALTORS® shall serve as ex-officio members without a vote as shall the Immediate Past Chairman of the Board if his term as a voting member of the Board has expired.

### Section 3. Appointment, Qualification and Terms

(a) Nominating Committee. A Nominating Committee of at least three (3) REALTOR® members of the Maine Association of REALTORS® shall be appointed by the President of the Maine Association of REALTORS by October 1 of each year for the purposes of recommending a Chairman and Vice Chairman for consideration for election by the MAR Foundation Board of Directors; and to recommend a list of potential Directors for consideration by the MAR President for appointment to the MAR Foundation Board of Directors. The Directors shall be notified of the recommended Slate of Officers at least 10 days prior to a meeting when the vote will take place.

(b) Appointment. The members of the Board of Directors shall be appointed by the President of the Maine Association of REALTORS® and confirmed by the Board of Directors of the Maine Association of REALTORS®. Members may or may not be from among those provided by the Nominating Committee.

(c) Qualification. Ten of the directors shall be selected from persons who hold current membership in the Maine Association of REALTORS®. Consideration shall be given to the geographic location of directors. The remaining five directors shall be selected from the private or public sector. There shall be no requirement that public members hold Affiliate membership in MAR.

(d) Terms. Directors shall be appointed to serve for three-year terms. No director may serve more than two consecutive appointed three-year terms. At no time may Directors serve more than six consecutive years.

### Section 4. Absence

Absence from two consecutive regular meetings of the Board of Directors without an excused absence received prior to a meeting by the Foundation Chairman or staff, and so recorded administratively, shall be construed as a resignation.

## Section 5. Vacancies

Vacancies among the Board of Directors shall be filled by the President of the Maine Association of REALTORS®, with the approval of the Board of Directors of the Maine Association of REALTORS®, for the unexpired portion of the term of such directorship.

## Section 6. Removal

In the event that an elected Officer or Director is deemed to be incapable of fulfilling the duties for which elected but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure:

- a) A petition requiring the removal of an Officer or Director signed by a majority of Directors shall be filed with the Chairman, or if the Chairman is the subject of the petition, with the next-ranking Officer, and shall specifically set forth the reasons the subject thereof is deemed disqualified from further service;
- b) Upon receipt of the petition, and not less than 20 days or more than 45 days thereafter, a special meeting of the Board of Directors shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director who is subject of the petition and to render a decision on such petition;
- c) The special meeting shall be noticed to all voting Members of the Board at least ten (10) days prior to the meeting and shall be conducted by the Chairman unless the Chairman's continued service in office is being considered at the meeting. In such case, the next-ranking officer will conduct the meeting of the hearing by the Board. A two-thirds vote of the entire membership of the Board of Directors shall be required for removal from office.

The directorship of any director who is appointed from among those persons who hold membership in the Maine Association of REALTORS® shall terminate without the necessity of a vote in the event that the director terminates or ceases to hold membership in the Maine Association of REALTORS®.

## Section 7. Compensation

Directors shall serve without salary or other compensation, but, by resolution of the Board, may be reimbursed for expenses actually and reasonably incurred in the discharge of Foundation business. Directors may be indemnified for all expenses relating to judgments which may be incurred as the result of any claims against them arising out of their performance or failure to perform on behalf of the Foundation.

## Section 8. Meetings

Meetings of the Board of Directors may be held at such times and at such places as directors deem appropriate.

The Chairman may call a special meeting of the directors for any purpose provided notice of the meeting is given three days in advance of the meeting date. Said notice shall contain a statement of the business to be transacted. A special meeting of the Board of Directors may be called upon the written request of five (5) Directors provided a statement of purpose for the meeting accompanies said notice or request.

## Section 9. Quorum

A quorum for the transaction of business shall consist of a majority of Directors.

## Section 10. Transaction of Business: Electronic or Mail

Directors may also transact business electronically or by mail to the fullest extent permitted by law.

### Section 10.1. Balloting:

Ten (10) days will be allocated from the MAR Foundation transmittal or postmark date to the return transmittal or postmark date for mail or electronic voting. To verify the participant, each Director will sign and date the bottom of the voting ballot. All Directors shall be considered present during mail or electronic balloting.

Roberts Rules of Order, latest edition, shall be recognized as the authority governing the transactions of business except where Rules conflict with the provision of these bylaws.

## ARTICLE IV – OFFICERS

### Section 1. Officers and Qualification

The Board of Directors shall consider the recommendations of the Nominating Committee and elect for one-year terms a Chairman of the Board, a Vice Chairman and a Treasurer. The Board of Directors shall appoint an Executive Director who shall also serve as the Secretary of the Foundation. The Chairman and Vice Chairman may serve no more than two consecutive one-year terms. Only REALTOR® members shall be eligible to be elected to the office of Chairman. A public member may be elected to the office of Vice Chairman but may only serve as Chairman in the absence of the Chairman for the purposes of presiding at a meeting, or if the Chairman terminates his/her position, the Vice Chairman may serve as Chairman until a REALTOR® member is elected to the position.

The Chairman or Vice Chairman, who has served two consecutive terms, shall not be eligible for re-election to the same office until at least one year has elapsed.

### Section 2. Election

Election of Officers shall take place no later than one month following the annual meeting of the Maine Association of REALTORS®.

### Section 3. Duties

(a) Chairman of the Board. The Chairman of the Board shall be the chief elected officer of the Foundation and shall preside at all meetings of the Board of Directors. The Chairman shall ensure that all orders and resolutions of the Board of Directors are duly executed. The chairman may execute all contracts, deeds, certificates, bonds, or other obligations authorized by the Board and may sign any records or certificates required by law or by orders of the Board of Directors. The Chairman shall perform such other duties as the Board of Directors may delegate.

(b) Vice Chairman. The Vice Chairman shall perform the duties of the Chairman in the event of the Chairman's absence or inability to serve and shall perform such other duties as the Board of Directors may delegate.

(c) Executive Director and Secretary. The Executive Director of the Maine Association of REALTORS® Foundation shall be the chief administrative officer of the Foundation, and shall be responsible for all management functions, and shall serve as Secretary of the Foundation. The Executive Director shall manage and direct all activities of the Foundation as prescribed by the Board of Directors and shall be responsible to the Board. The Executive Director shall have the authority to hire, supervise, evaluate and terminate other staff, if any, and shall perform such other duties as prescribed by the Board of Directors.

The Executive Director or delegated staff shall perform the duties of Secretary and shall 1) attend all meetings of the Board of Directors and record and maintain the minutes of such meetings, 2) give and serve all notices of the Foundation, 3) be the custodian of all papers brought before the Board of Directors for action or ordered on file; also of all written contracts, deeds, insurance policies, leases, records, and evidences of title to real estate and other property (except moneyed securities) owned, held or controlled by the Foundation.

(d) Treasurer. The duties of the Treasurer shall be such as the title, by general usage, would indicate and such may be assigned by the Board of Directors from time to time and such as required by law. The duties of the Treasurer may be delegated to the Executive Director.

(e) Immediate Past Chairman. If the term of the Immediate Past Chairman has expired, he shall remain on the Board of Directors as an ex-officio member without a vote for one additional year. The Immediate Past Chairman shall perform such duties as are assigned to him by the Chairman of the Board.

#### Section 4. Vacancies

Vacancies among the elected officers shall be filled by the Board of Directors until the next election.

### ARTICLE V – COMMITTEES

#### Section 1. Standing or Advisory Committees and Task Forces

The Board of Directors may establish a Finance Committee, a Grants Committee and such other standing or ad hoc committees and task forces which are necessary or desirable, and may delegate to such committees any power or authority that is permitted by law. The Board of Directors shall appoint such person, whether or not members of the Board of Directors, to serve as members of such committees and task forces. The purpose, function, and duties of such committees and task forces shall be established by the Board of Directors.

## ARTICLE VI – INDEMNIFICATION

### Section 1. Basic Indemnification

Any person who was or is a party or is threatened to make a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, officer, employee, or agent of the Foundation, or is or was serving at the request of the Foundation as a director, officer, employee or agent of any corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Foundation against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonable incurred by him or her in connection with such action, suit, or proceeding; provided that no indemnification shall be provided for any person with respect to any matter as to which such person shall have been finally adjudicated in any action, suit or proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the Foundation, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, or conviction adverse to such person, or by settlement or a plea of nolo contendere or its equivalent, shall not itself create a presumption that such person did not act in good faith in the reasonable belief that his or her action was in the best interests of the Foundation, or with respect to any criminal action or proceedings, had reasonable cause to believe that his or her conduct was unlawful.

### Section 2. Circumstances In Which Right Accrues

Any provision of these bylaws to the contrary notwithstanding, to the extent that a director, officer, employee or agent of the Foundation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 of the Article, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection therewith. Any such person may enforce the right of indemnification granted by these bylaws by a separate action against the Foundation, if an order of indemnification is not entered by a court in the action, suit or proceeding in which he or she was successful on the merits or otherwise. Any other indemnification under Section 1 of this Article, unless ordered by a court, shall be made by the Foundation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in said Section 1. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or if such a quorum is not obtainable (or even if obtainable, if a quorum of disinterested directors so directs) by independent legal counsel in written opinion. Any such determination, once made by the Board of Directors, the director, officer, employee or agent may enforce the right of indemnification against the Foundation by a separate action notwithstanding any attempted or actual subsequent action by the Board of Directors.

### Section 3. Advance Payment

Expenses incurred by a director, officer, employee or agent of the Foundation in defending a civil or criminal action, suit or proceeding may be paid by the Foundation in advance of the final disposition of such action, suit or proceedings as authorized by the Board of Directors in the manner hereinbefore provided, upon receipt of an undertaking by or on behalf of the director, officer, employee

or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Foundation as authorized in these bylaws.

#### Section 4. Other Rights

The indemnification provided in these bylaws for any person shall not be deemed exclusive of any other rights to which such person may be entitled under any other bylaw, agreement, vote of disinterested directors, or by law or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to any such person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

#### Section 5. Insurance

The Board of Directors may authorize the purchase and maintenance of insurance, at the expense of the Foundation, on behalf of any person who is or was a director, officer, employee or agent of the Foundation or is or was serving at its request as a director, officer, employee or agent of any corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Foundation would have the power to indemnify such person against such liability under any law, these bylaws or otherwise.

### ARTICLE VII – FISCAL YEAR

The fiscal year of the corporation shall be January 1 – December 31.

### ARTICLE VIII – FINANCE AND ADMINISTRATION

#### Section 1. Exempt Status

Notwithstanding any other provision of these bylaws, no director, officer, employee or agent of the Foundation shall, while acting for the Foundation, take any action or conduct any activity which is not permitted to be taken or conducted by an organization described in Section 170 (c)(2) and Section 501 (c)(3) of the Internal Revenue Code of 1954, as it is from time to time amended.

#### Section 2. Audit

A Certified Public Accountant shall perform a financial review of the books, records, and accounts of the Foundation annually at the close of the fiscal year. The Executive Director shall select the Certified Public Accountant annually.

### ARTICLE IX – AMENDMENTS

These bylaws may be amended at a Board of Directors meeting by the affirmative vote of two thirds of the directors present and eligible to vote, provided a written notice of the text or summarized substance of any proposed amendments is received at least fifteen (15) days in advance of the date of which the vote to amend the bylaws is scheduled to take place; subject to ratification by a majority vote of the MAR Board of Directors.

## ARTICLE X – DISSOLUTION

Upon the dissolution of the Foundation or the termination of its activities, the assets remaining after the payment of all its liabilities shall be distributed exclusively to one or more organizations organized and operated exclusively for such purposes as shall then qualify as an exempt organization or organizations under Section 501 (c)(3) of the Internal Revenue Code of 1954, as amended, and as a charitable, religious, eleemosynary, benevolent or educational corporation within the meaning of Title 13B, or the Maine Revised Statutes as amended; said organization or organizations shall be selected by the Board of Directors. No member, director, or officer of the Foundation or any private individual shall be entitled to share in the distribution of any assets upon dissolution of the Foundation.