

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1782

H.P. 1320

House of Representatives, January 25, 1994

An Act to Clarify the Tax-exempt Status of Nonprofit Rental Housing.

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DORE of Auburn.
Cosponsored by Representatives: DiPIETRO of South Portland, HOGLUND of Portland,
LARRIVEE of Gorham, MURPHY of Berwick, NADEAU of Saco, RAND of Portland,
RUHLIN of Brewer, SIMONEAU of Thomaston, Senators: BRANNIGAN of Cumberland,
ESTY of Cumberland.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, the moratorium on the eligibility of nonprofit
6 rental housing for property tax exemptions expires on March 31,
1994; and

8 Whereas, Maine property tax payers could be forced to absorb
10 millions of dollars in tax losses if the moratorium expires
before permanent legislation is enacted to correct this
12 situation; and

14 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
16 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
18 safety; now, therefore,

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

22 **Sec. 1. 36 MRSA §652, sub-§1, ¶C,** as amended by PL 1993, c.
422, §4, is further amended to read:

24 C. Further conditions to the right of exemption under
26 paragraphs A and B are that:

28 (1) Any corporation claiming exemption under paragraph
A must be organized and conducted exclusively for
30 benevolent and charitable purposes;

32 (2) A director, trustee, officer or employee of an
organization claiming exemption is not entitled to
34 receive directly or indirectly any pecuniary profit
from the operation of that organization, excepting
36 reasonable compensation for services in effecting its
purposes or as a proper beneficiary of its strictly
38 benevolent or charitable purposes;

40 (3) All profits derived from the operation of an
organization claiming exemption and the proceeds from
42 the sale of its property are devoted exclusively to the
purposes for which it is organized;

44 (4) The institution, organization or corporation
46 claiming exemption under this subsection shall file
with the tax assessors upon their request a report for
48 its preceding fiscal year in such detail as the tax
assessors may reasonably require;

50

2 (5) An exemption is not allowed under this subsection
in favor of an agricultural fair association holding
4 pari-mutuel racing meets unless it has qualified the
next preceding year as a recipient of the "Stipend
6 Fund" provided in Title 7, section 62; and

8 ~~(6) Real or personal property owned, occupied or used
to provide residential rental housing that is used on
10 other than a transient basis and during or before tax
year 1993 was not exempt under paragraph A or B, is not
12 exempt in any tax year after 1993.~~

14 ~~For purposes of this subparagraph, "residential rental
housing" does not include property used as a nonprofit
16 nursing home, boarding home or boarding care facility
licensed by the Department of Human Services pursuant
to Title 22, chapter 1665 or community living
18 facilities as defined in Title 30 A, section 4357,
subsection 2, paragraph B or any property of a
20 nonprofit organization licensed as a mental health
facility by the Department of Mental Health and Mental
22 Retardation pursuant to Title 34 B, section 1203-A.~~

24 ~~This subparagraph does not apply to property conveyed
to a nonprofit corporation on or before September 1,
26 1993.~~

28 ~~This subparagraph is repealed March 31, 1994.~~

30 (6) An exemption is not allowed under paragraph A or B
for real or personal property owned and occupied or
32 used to provide residential rental housing.

34 Federally subsidized residential rental housing first
placed in service prior to September 1, 1993 that is
36 owned by a nonprofit housing corporation and the
operation of which is not an unrelated trade or
38 business to that nonprofit housing corporation is
eligible for an exemption limited to 50% of the
40 municipal assessed value of that property.

42 All other residential rental housing that is owned by a
nonprofit housing corporation and the operation of
44 which is not an unrelated trade or business to that
nonprofit housing corporation is eligible for an
46 exemption limited to 50% of the municipal assessed
value of that property unless the total assessed
48 valuation of all tax-exempt residential rental housing
in the municipality would exceed 2 1/2% of the total
50 assessed valuation of all taxable property in the
municipality if the exemption were granted. Applicants
52 whose property is denied exemption because of this

2 ceiling may reapply in any subsequent tax year.
3 Applications for exemption must be considered by the
4 municipality in the order received.

5 An exemption granted under this subparagraph must be
6 revoked for any year in which the owner of the property
7 is no longer a nonprofit housing corporation or the
8 operation of the residential rental housing is an
9 unrelated trade or business to that nonprofit housing
10 corporation.

11 (a) For purposes of this subparagraph, the following
12 terms have the following meanings.

13 (i) "Federally subsidized residential rental
14 housing" means residential rental housing that is
15 subsidized through project-based rental assistance
16 or an operating or interest rate subsidy paid by
17 or on behalf of an agency or department of the
18 Federal Government.

19 (ii) "Nonprofit housing corporation" means a
20 nonprofit corporation organized in the State that
21 is exempt from tax under Section 501 (c) (3) of
22 the Code and has among its corporate purposes the
23 construction, rehabilitation, ownership or
24 operation of housing.

25 (iii) "Residential rental housing" means one or
26 more buildings, together with any facilities
27 functionally related and subordinate to the
28 building or buildings, containing one or more
29 similarly constructed residential units offered
30 for rental to the general public for use on other
31 than a transient basis, each of which contains
32 separate and complete facilities for living,
33 sleeping, eating, cooking and sanitation.

34 (iv) "Unrelated trade or business" means any
35 trade or business the conduct of which is not
36 substantially related to the exercise or
37 performance by a nonprofit corporation of the
38 purposes or functions constituting the basis for
39 exemption under Section 501 (c) (3) of the Code.

40 (b) An exemption is not allowed for the following
41 property:

42 (i) Property used as a nonprofit nursing home,
43 boarding home or boarding care facility licensed
44 by the Department of Human Services pursuant to
45 Title 22, chapter 1665 or a community living
46 center.

2 facility as defined in Title 30-A, section 4357,
3 subsection 2, paragraph B or any property owned by
4 a nonprofit organization licensed by the
5 Department of Mental Health and Retardation to
6 provide mental health services pursuant to Title
7 34-B, section 1203-A;

8 (ii) Property used for student housing;

10 (iii) Property used for parsonages;

12 (iv) Property that was owned and occupied or used
13 to provide residential rental housing and that
14 qualified for exemption under paragraphs A or B
15 prior to September 1, 1993; or

16 (v) Property exempt from taxation under
17 provisions of law other than this section.

20 **Emergency clause.** In view of the emergency cited in the
21 preamble, this Act takes effect when approved.

24 **STATEMENT OF FACT**

26 This bill amends the law concerning property tax exemptions
27 for residential rental housing. It removes the repeal date that
28 would have disqualified rental housing from the exemptions and
29 allows an exemption of up to 50% for certain qualifying property.

32 _____

34 This document has not yet been reviewed to determine the
35 need for cross-reference, stylistic and other technical
36 amendments to conform existing law to current drafting standards.