

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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No. 1299

H.P. 933

House of Representatives, April 24, 1989

Reference to the Committee on Taxation suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Senator ANDREWS of Cumberland, Representative SWAZEY of Bucksport and Representative NADEAU of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Provide Funding for Homestead Land Trusts.



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

3 Sec. 1. 30-A MRSA c. 201, sub-c. XII is enacted to read:

5

SUBCHAPTER XII

7

GRANTS TO HOMESTEAD LAND TRUSTS

9

§4961. Definitions

11

13 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

15

17 1. Below-market price. "Below-market price" means an acquisition price for any buildings or improvements constructed on homestead land trust property which is calculated according to a formula based on a family's investment in the buildings or improvements rather than a price determined by the market. In all but the most unusual circumstances, a price calculated in this way is below the market price.

23

2. Family. "Family" means a household consisting of one or more persons.

25

27 3. Homestead land trust. "Homestead land trust" means land or interests in land which have been acquired by a nonprofit corporation and are being held to provide for existing and future housing needs of low-income and very low-income families.

31

33 4. Housing project. "Housing project" or "project" means any work or undertaking, which may include, but is not limited to, acquisition of property to provide decent, safe and sanitary dwelling units for low-income or very low-income families.

35

37 5. Legal heir. "Legal heir" means a person who would inherit the decedent's property, real or personal, in accordance with the decedent's will or, in the absence of a will, in accordance with State laws.

39

41 6. Limited equity cooperative. "Limited equity cooperative" means a cooperative organization pursuant to Title 13-B, owned and operated as housing for low-income families, which provides that family with an ownership interest, but limits the amount which that family can realize on the sale of that family's interest to an amount approximating the family's investment in the property.

47

49 7. Low-income and very low-income families. "Low-income and very low-income families" means families who lack the amount of income necessary to rent or purchase decent, safe and sanitary housing.

51

1 The income limits used by the Farmer's Home Administration for
3 determination of low-income and very low-income families shall be
5 used in administering this subchapter.

7 8. Nonprofit corporation. "Nonprofit corporation" has the
9 same meaning as in Title 13-B, section 102. In addition, for the
11 purposes of this subchapter, the corporation must have as one of
13 its purposes the construction, rehabilitation, ownership or
15 operation of housing and articles of incorporation approved by
17 the Secretary of State and a certificate of tax-exempt status
19 from the United States Internal Revenue Service.

21 9. Person. "Person" means a natural person.

23 §4962. Homestead Land Trust Program

25 1. Program established. The Homestead Land Trust Program
27 is established and shall be administered by the Maine State
29 Housing Authority. The Maine State Housing Authority may extend
31 financial assistance in the form of grants to nonprofit
33 corporations to enable them to acquire, hold and manage land and
35 interests in land to provide for existing and future housing
37 needs of low-income families. The Maine State Housing Authority
39 may also transfer surplus state land to nonprofit corporations
41 for these purposes. The Maine State Housing Authority shall
43 develop underwriting mechanisms, standards and policies which
45 permit any nonprofit organization, limited equity cooperative,
47 and low-income or very low-income family that qualifies for
49 assistance under this subchapter to obtain a mortgage or
51 mortgages to develop or purchase housing for all purposes in
53 section 4964, subsection 1. Ninety percent of the amount of any
55 grant made under this section shall be for land trust purchases
57 or the construction cost of low-income and very low-income
59 housing.

61 2. Development and preservation. The Homestead Land Trust
63 Program permits a nonprofit corporation to acquire land or
65 interests in land suitable for development and preservation of
67 housing that will remain affordable to low-income and very
69 low-income families, regardless of whether the nonprofit
71 corporation is able to develop the property for a housing project
73 at the time of the acquisition.

75 §4963. Undeveloped property; plan required

77 1. Plan. If, at the time property is acquired under the
79 program, the nonprofit corporation is unable to develop the
81 property for a housing project, within 2 years of the date of
83 acquisition of property, a nonprofit corporation must submit to
85 the Maine State Housing Authority a plan for the development of
87 the land acquired under this subchapter. The plan must:

1 A. Demonstrate that the nonprofit corporation currently has
3 an application for project financing under review by a
5 governmental or private financial institution; and

7 B. Explain the mechanism, acceptable to the Maine State
9 Housing Authority, which will guarantee that the land will
 continue to provide housing affordable to low-income and
 very low-income families.

11 2. Extension. If the nonprofit corporation is unable to
13 submit a plan within the required 2-year period, the Maine State
 Housing Authority may grant an extension if it determines that an
 extension is in the best interest of the State.

15 §4964. Program requirements

17 1. Powers of nonprofit corporation. A nonprofit
19 corporation shall hold in trust all land and interests in land
21 acquired under this program to encourage the development of
 housing for low-income and very low-income families. The
 nonprofit corporation may:

23 A. Lease land and interests in land to low-income and very
25 low-income families, limited equity cooperatives or other
 nonprofit corporations;

27 B. Sell or lease existing buildings or improvements to
29 low-income and very low-income families, limited equity
 cooperatives or other nonprofit corporations; or

31 C. Allow low-income and very low-income families, limited
33 equity cooperatives or other nonprofit corporations to place
35 and hold title to new or additional buildings or
 improvements on the land.

37 2. Terms of lease. Any lease between a nonprofit
39 corporation and a low-income or very low-income family, limited
41 equity cooperative or other nonprofit corporation for the use of
 land and interests in land acquired under the Homestead Land
 Trust Program shall include, but not be limited to, the following
 terms:

43 A. The land shall be developed and used solely for housing
45 low-income and very low-income families. Nothing in this
47 subchapter shall be construed to prohibit a nonprofit
 corporation from using the financial assistance provided by
 this subchapter to:

49 (1) Encourage economic activity for the benefit of
51 eventual residents of the homestead land trust property

1 in the form of on-site natural resource-based
3 businesses; or

5 (2) Set aside common areas of homestead land trust
7 property for the common use of its residents, such as a
9 community center, playground, waterfront access or
11 economic or educational activity of the nonprofit
 corporation, as long as at least one dwelling is
 provided for each 10 acres of land and all homestead
 land trusts of less than 10 acres include at least one
 dwelling;

13 B. When the low-income family, limited equity cooperative
15 or other nonprofit corporation holds title to any building
17 or improvement on the land, the nonprofit corporation
19 holding title to the land shall have, in the event of a
 sale, the first option to purchase that building or
 improvement at a below-market price;

21 C. The below-market price, or a formula for determining the
 below market-price, shall be included in the lease;

23 D. The legal heirs of any lessee, regardless of income,
25 shall have the right to assume the lease upon the death of
27 the lessee provided that the lessee was a natural person and
 that the heirs agree to make the leased premises their
 principal residence; and

29 E. The lease shall be subject to the provisions of this
31 subchapter.

33 3. Information required by Maine State Housing Authority
35 before lease or sale of land or buildings. If the nonprofit
37 corporation intends to lease the land or sell or lease the
 buildings which it has acquired under this program, it shall
 provide the following for approval by the Maine State Housing
 Authority:

39 A. The identity or identification of the proposed lessee,
41 buyer or marketing plan;

43 B. A description of the lessee's or buyer's proposed use of
 the land or building or buildings;

45 C. If the lessee or buyer is a family, documentation
47 demonstrating that the family's income falls within the
 income limits established in section 4969;

49 D. A copy of the proposed lease or contract for sale;

1 E. The method to be used by the nonprofit corporation in
3 determining the below-market price for its acquisition of
 buildings or improvements on land which it has leased; and

5 F. Any other documentation which the Maine State Housing
7 Authority determines necessary to ensure that the property
 is being used for housing low-income families.

9 §4965. Application process

11 1. Acceptance of applications. The Maine State Housing
13 Authority may solicit or accept applications from nonprofit
 corporations for financial assistance.

15 2. Requirements for all nonprofit corporation applicants.
17 As part of the application and approval process for the Homestead
19 Land Trust Program, the nonprofit corporation shall be required
 to furnish the following:

21 A. Evidence of housing need;

23 B. Identification of the land or interests in land to be
 acquired, including a legal description of the land;

25 C. An appraisal of the value of the land or interest in
27 land, buildings and improvements;

29 D. Financial information on the projected cost of acquiring
 the property; and

31 E. A description of the nonprofit corporation's proposed
33 use of the land, buildings and improvements.

35 3. Requirements for nonprofit corporations unable to
37 develop project at time of acquisition. A nonprofit corporation
 that is unable to develop the property at the time the property
 is acquired shall furnish the following:

39 A. The reason that the land cannot be immediately developed
41 for low-income housing; and

43 B. Identification of how the land is presently zoned.

45 4. Requirements for nonprofit corporations able to develop
47 property at the time of acquisition or that acquire property
49 already developed. In addition to the requirements of subsection
 2, a nonprofit corporation that is able to develop the property
 at the time of acquisition shall be required to furnish the
 following:

51 A. Evidence that the land is properly zoned for the
 proposed use;

1 B. The identification of any governmental or private
3 housing finance programs to be used for construction or
5 rehabilitation of housing and evidence that financial
 assistance has been sought through those programs; and

7 C. The identification of any proposed lessees of the land
9 or lessees or buyers of the buildings or improvements or a
 marketing plan.

11 §4966. Eligibility

13 1. Eligibility requirements. To be eligible for a grant
15 under this program, a nonprofit corporation shall:

17 A. Submit an endorsed certificate of incorporation certified
19 by the Secretary of State that states that the nonprofit
21 corporation has, as one of its purposes, the ownership of
 homestead land trust land construction, rehabilitation,
 ownership or operation of low-income and very low-income
 family housing;

23 B. Submit a certificate of good standing certified by the
25 Secretary of State;

27 C. Inform the Maine State Housing Authority in writing of
 the corporation's principal place of business;

29 D. Demonstrate the ability to undertake the development of
31 the project by providing financial statements of the
 nonprofit corporation;

33 E. Submit a list of any housing project developed, owned or
35 managed by the nonprofit corporation;

37 F. Submit the names, addresses and telephone numbers of its
39 current directors or officers and agent for
 service-of-process purposes;

41 G. Submit the relevant portions of the nonprofit
43 corporation's articles of incorporation or bylaws that
 describe the composition of the nonprofit corporation's
 board of directors; and

45 H. Disclose any interest by any member of the nonprofit
47 corporation's board of directors which conflicts with or is
49 related in any way to the project except as a board member
 of the nonprofit corporation.

51 §4967. Selection process and priorities

53 1. Selection criteria. Applications shall be approved or
 disapproved by the Maine State Housing Authority based on the
 factors set out in sections 4965, 4966 and this section, the

1 availability of financial assistance, the preferences in
2 subsection 2 and the following:

3 A. Available data on housing need and availability;

5 B. Local housing plans, if any;

7 C. The suitability of the proposed site and project; and

9 D. The capability of the nonprofit corporation to plan,
11 complete and manage a project, including past experience and
13 affiliation with an established land trust.

15 2. Preferred projects and grants. To the extent feasible,
preference shall be given to:

17 A. Projects that have as their purpose the provision of
19 housing to low-income and very low-income families;

21 B. Projects that include a component designed to increase
23 the economic activity of the eventual residents of the land
25 trust, such as on-site, natural resource-based businesses;

27 C. Projects that provide land for gardens or small-scale
29 agriculture, in addition to housing, on the site;

31 D. Nonprofit corporations with bylaws that provide for
33 significant representation on the board of directors for
35 both residents and community representatives;

37 E. Projects that attempt to minimize or eliminate the
39 requirement of a down payment to the families that will
41 reside in the housing;

43 F. Projects that plan to develop the production of building
45 materials on or near the site as part of the plan to provide
47 housing for low-income and very low-income families;

49 G. Projects that have a significant self-help component
51 that involves the low-income and very low-income families in
building their own homes;

H. Nonprofit corporations that establish their ability to
recruit and use volunteer labor in the construction of homes
for low-income and very low-income families;

I. Projects that will promote the geographic spread of land
trust activity within the State; and

J. Projects that help increase the number of nonprofit
corporations involved with homestead land trust programs.

1 3. Notice of rejection. If an application is rejected, the
3 nonprofit corporation shall be notified in writing of the reasons
 for the rejection.

5 4. Notice of approval. If an application is approved, the
7 Maine State Housing Authority shall notify the nonprofit
 corporation, in writing, that the project may proceed and
9 indicate the expected terms and conditions of the contract for
 financial assistance under this program.

11 §4968. Restrictions on sale or use of property

13 1. Transfer to another eligible nonprofit corporation. In
15 addition to whatever remedies are contained in the contract, the
17 nonprofit corporation shall, upon demand by the Maine State
19 Housing Authority, transfer title to another nonprofit
 corporation eligible for benefits under this subchapter and
 approved by the Maine State Housing Authority, if the Maine State
 Housing Authority determines that:

21 A. Reasonable progress in the development of property has
23 not been made from the date of acquisition of land or
 interests in land;

25 B. The property has been developed or used for purposes
27 other than for housing to benefit low-income and very
 low-income families and other purposes of this subchapter; or

29 C. The nonprofit corporation has changed its purpose so
31 that it no longer conforms with that originally submitted
 and approved.

33 2. Conveyance upon dissolution. If a nonprofit corporation
35 dissolves its organization, the nonprofit corporation must convey
37 its interests in the property to another nonprofit corporation
 eligible for benefits under this subchapter, with the approval of
 the Maine State Housing Authority.

39 §4969. Maximum income limit

41 Home ownership income limits shall not exceed those
43 established and revised from time to time by the United States
45 Department of Agriculture Farmer's Home Administration in its
 definition of "low-income family" and "very low-income family."

47 The grants set out in this subchapter shall be funded from
49 the Housing Opportunities for Maine Fund operated by the Maine
51 State Housing Authority. In addition, money received from the
 Maine tax on capital gains from speculative land sales shall be
 added to the Housing Opportunities for Maine Fund and used for
 the purposes consistent with the aim of providing housing for
 low-income and very low-income families in Maine.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1989-90

MAINE STATE HOUSING AUTHORITY

Housing Opportunities for Maine Fund

All Other	\$5,000,000
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Provides funds for the Homestead Land Trust Program.

STATEMENT OF FACT

The purpose of this legislation is to provide affordable housing for low-income families by encouraging the development and growth of homestead land trusts throughout Maine. Homestead land trusts are locally controlled nonprofit organizations which own land and build housing to be sold or leased to low-income and very low-income families. The sale or lease is set up in such a way that the family has a mortgageable interest in the dwelling, but cannot sell this interest outside the land trust for more than the family's investment in the dwelling. All the family's interest in the dwelling and land is inheritable. In this way, the housing can be kept affordable for generations even when land prices nearby are pricing low-income families out of the market.

Land trust legislation has been enacted and funded in Connecticut and Vermont, and this legislation is based on the Connecticut statute and regulations.