



# 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

Legislative Document

No. 1544

H.P. 1111

House of Representatives, May 8, 1989

Reference to the Committee on Taxation suggested and ordered printed.

2d Part

EDWIN H. PERT, Clerk

Presented by Representative HOGLUND of Portland. Cosponsored by Representative NADEAU of Saco, Representative RAND of Portland and Representative DORE of Auburn.

STATE OF MAINE

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

An Act Concerning an Occupancy Fee.

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1	Be it enacted by the People of the State of Maine as follows:
3	36 MRSA c. 373 is enacted to read:
5	CHAPTER 373
7	HOTEL OCCUPANCY FEE
9	<u>§2871. Hotel occupancy fee</u>
11	Notwithstanding any other provision of law to the contrary,
13	any municipality having a population in excess of 25,000 people is authorized to impose and collect a fee on the occupancy of botal rooms within its boundaries. For purposes of this chapter
15	hotel rooms within its boundaries. For purposes of this chapter, a "hotel" means an establishment that holds itself out by any means, including, but not limited to, advertising, license,
17	registration with any innkeepers' group, convention listing association, travel publication or similar association or with
19	any governmental agency, as being available to provide lodging or facility space for persons seeking temporary accommodation, that
21	is licensed or required to be licensed under state law.
23	<u>§2872. Fee amount</u>
25	The fee shall be 25¢ per day or up to \$1 per week of stay and shall be assessed each time the occupancy of the room changes.
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29	The fee may be collected and administered by the fiscal
31	officers or officials of the municipality by any means and in any manner as other fees or taxes which are now collected or
33	administered by the officers or officials in accordance with the charter or administrative code of any municipality or as
35	otherwise may be provided for by law.
37	<u>§2874. Collection; owner responsible</u>
39	Local laws may provide that the occupant pay any fee imposed by the municipality to the owner of the hotel room or other
41	person entitled to be paid for the hotel room and that the owner is liable for the collection and the payment of the fee. The
43	owner may collect the fee from the person or persons occupying the hotel room as if the fee were part of the rent or charge for
45	the room and payable at the same time as the rent or charge for provided that the fiscal officers or officials of the
47	municipality are made parties to any action or proceeding brought by the owner to collect the fee. Local laws may also provide for
49	the filing of returns and the payment of any fee by the owner on
51	<u>a monthly basis or on the basis of any longer or shorter period of time.</u>

#### §2875. Review

Any final determination by a municipality to impose a fee shall be reviewable by a court of law if a proceeding challenging the determination is commenced within 30 days after notice of the final determination is published in accordance with procedures in effect in the municipality for publishing the effective date of municipal ordinances.

#### §2876. Refund

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Where any fee imposed has been erroneously, illegally or 13 unconstitutionally collected and application for a refund has been made to proper fiscal officers or officials, and the officers or officials shall have made a determination denying a 15 refund, the determination shall be reviewable by a court of law 17 if a proceeding challenging the determination is instituted within 30 days after the officials have given the party seeking the refund notice of the determination denying the requested 19 refund, provided that a final determination of fee due was not 21 previously made and that an undertaking is filed with the proper fiscal officers or officials in an amount and with such surety as 23 the court in which the proceeding is to be commenced shall approve to the effect that if the proceeding is dismissed or if 25 the fee is confirmed, the party commencing the action will pay all expenses and costs that may accrue in the prosecution of the proceeding, including, but not limited to, the reasonable 27 attorney's fees of the prevailing party or parties.

### 2877. Returns

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Except in the case of a willfully false or fraudulent return 33 with intent to evade the fee, no assessment of additional fee shall be made after the expiration of more than 3 years from the date of the filing of the return, provided that, when no return 35 has been filed as provided by law, the fee may be assessed at any 37 time.

#### 39 §2878. Revenues; paid to treasurer

41 Revenues resulting from the imposition of the fee authorized by this chapter shall be paid to the treasury of the municipality imposing the fee and shall be credited to and deposited in the 43 general fund of the municipality. Once each year, the appropriate fiscal officers or officials of a municipality 45 imposing a fee authorized by this chapter shall report to the Bureau of Taxation the amount of revenue received during the 47 previous 12 months from such fees.

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3	<u>§2879. Fee allocation</u>
5	The revenues realized by imposition of a fee authorized by this chapter shall be allocated as follows.
7	1. Alleviate property tax. Two thirds shall be used to alleviate increases in the property tax.
9	<u>arrovide increases in the property tax.</u>
11	2. Convention activities. One third shall be used to enhance the municipality's resources to attract convention activities.
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15	<u>§2880. Exemptions</u>
17	This chapter shall not authorize the imposition of a fee on the following:
19	1. Governmental entities. Any federal or state
21	<u>governmental entity;</u>
23	2. Corporation. Any public corporation, including a public corporation created pursuant to agreement or compact with another
25	<u>state or the Dominion of Canada, improvement district or other political subdivision; or</u>
27	<u>3. Charitable corporation. Any corporation or association or trust, or community chest, fund or foundation, organized and</u>
29	operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or
31	animals, and no part of the net earnings of which inures to the
33	benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on
25	propaganda, or otherwise attempting to influence legislation,
35	provided that nothing in this section includes an organization operated for the primary purpose of carrying on trade or business
37	for profit, regardless of whether all of its profits are payable
39	to one or more organizations described in this section.
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43	STATEMENT OF FACT
45	This bill allows a municipality having a population in

excess of 25,000 people to impose a fee on the occupancy of hotel
47 rooms. Any money collected as a result of this fee shall be used to relieve property tax burdens, for general assistance and to
49 help enhance the municipality's resources to attract people to the municipality.

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