

# MAINE STATE LEGISLATURE

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DATE: 3/8/94

(Filing No. H-814 )

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1333, L.D. 1796, Bill, "An Act Imposing Real Estate Transfer Tax on Nongovernmental Entities in Transactions Involving Governmental Entities"

Amend the bill by inserting before the enacting clause the following:

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, Public Law 1993, chapter 398 inadvertently imposed a tax on transfers and gifts of land to be used for recreation and conservation purposes; and

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

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 36 MRSA §4641-C, sub-§1, as amended by PL 1985, c. 691, §32, is further amended to read:

1. Deeds to government property. Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities, agencies or subdivisions. For the

COMMITTEE AMENDMENT

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purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that gifts of land and interests in land to governmental entities and deeds to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax;

Sec. 2. 36 MRS §4641-C, sub-§15, ¶C, as enacted by PL 1993, c. 398, §4, is amended to read:

C. From a trustee, nominee or straw party to the beneficial owner; and

Sec. 3. 36 MRS §4641-C, sub-§16, as enacted by PL 1993, c. 398, §4, is amended to read:

**16. Certain corporate and partnership deeds.** Deeds between a family corporation, partnership or limited partnership and its stockholders or partners for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership or limited partnership under the laws of this State, provided that the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership or limited partnership. For purposes of this subsection a family corporation, partnership or limited partnership is a corporation, partnership or limited partnership in which the majority of the voting stock of the corporation, or of the interests in the partnership or limited partnership is held by and the majority of the stockholders or partners are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related; and

Sec. 4. 36 MRS §4641-C, sub-§17 is enacted to read:

**17. Deeds to charitable conservation organizations.** Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds.

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

**FISCAL NOTE**

**REVENUES**

**1994-95**

General Fund

\$200,000

The collection of the real estate transfer tax from nongovernmental organizations that convey or receive title to real property with governmental units except gifts of land from nonprofit land conservation organizations and gifts of land to charitable conservation organizations will increase General Fund revenue by \$200,000 in fiscal year 1994-95. Counties will also receive additional revenue of approximately \$20,000 annually. Beginning in fiscal year 1995-96, the General Fund and the H.O.M.E. Fund will share equally the State's share of the additional revenue from the real estate transfer tax, approximately \$100,000 annually to each fund.

**STATEMENT OF FACT**

This amendment adds language to exempt gifts of land and deeds to governmental entities from nonprofit land conservation organizations from the real estate transfer tax.

This amendment also adds language to exempt gifts of land to nonprofit conservation organizations from the real estate transfer tax.

The amended bill requires that all other nongovernmental organizations involved in real estate transfers with any unit of government be liable for the real estate transfer tax.

The amendment also adds an emergency preamble, emergency clause and fiscal note to the bill.