



## **122nd MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2005

Legislative Document

No. 115

H.P. 91

House of Representatives, January 11, 2005

## An Act Enabling Municipalities To Establish Municipal Land Banks Funded by Local Option Real Estate Transfer Taxes

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative RECTOR of Thomaston. Cosponsored by Senator SAVAGE of Knox and Representatives: BOWEN of Rockport, KOFFMAN of Bar Harbor, MAZUREK of Rockland, PINGREE of North Haven, PIOTTI of Unity, SAVIELLO of Wilton, WOODBURY of Yarmouth, Senator: PERRY of Penobscot.

| Sec. 1. 30-A MRSA c. 157, sub-c. 6 is enacted to read:<br>SUBCHAPTER 6<br>MUNICIPAL LAND BANKS<br>\$3301. Establishment of municipal land bank<br>A municipality may establish a municipal land bank<br>accordance with this section.<br>1. Referendum required. A municipal land bank may<br>established only with approval by a referendum vote conducted<br>accordance with section 2528. Once established, a referend<br>vote conducted in a similar manner is required to alter or repe<br>provisions pertaining to the land bank. The municipal land ba<br>may be approved as a separate measure or as part of a referend<br>adopting a municipal real estate transfer tax under Title 3<br>section 4641-0.<br>2. Land bank account. A municipality establishing<br>municipal land bank shall maintain a separate account to received |
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| all tax revenue collected under Title 36, section 4641-   |
| subsection 4. A municipality may accept money from other publ   |
| and private sources for deposit in the municipal land ba  |
| account. Interest accrued by money deposited into the accou   |
| must be credited to the account. All deposits into the municip  |
| land bank account may be used only for the purposes permitt   |
| under this subchapter.  |
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| 3. Advisory board. A municipality that has established  |
| municipal land bank under this section shall create an advise   |
| board, in accordance with this Title, to review and ma  |
| recommendations on proposed acquisitions using money from t   |
| land bank account.  |
| 4. Use of funds. Funds in a municipal land bank accou   |
| are restricted to the following uses:   |
| ATT TOTATORY OF THE INTERNAL RECOV  |
| A. Acquiring interest in or managing land within t  |
| municipality for the purposes of:   |
|   |
| (1) Conserving land or maritime resources;  |
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| (2) Maintaining or improving opportunities  |
| recreation and environmental education within t   |
| municipality; and   |
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Page 1-LR0420(1)

|    | (3) Protecting the physical, historical, social or   |
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| 2  | economic character of the community; and   |
| 4  | B. Any other purposes that are incidental to the purposes  |
| 6  | permitted under paragraph A, including administrative and land maintenance costs.  |
| 8  | <u>A municipality may not acquire interest in land under this subchapter for purposes that are inconsistent with goals</u>   |
| 10 | established in that municipality's comprehensive plan.   |
| 12 | 5. Public hearing required. Interests or rights in real  |
| 14 | property may not be acquired under this subchapter until a<br>public hearing is held and budget authority approved pursuant to<br>this Title. A municipality may enter into a conditional purchase |
| 16 | agreement prior to a public hearing and budget approval.   |
| 18 | <b>6. Termination.</b> Upon dissolution of a municipal land bank established under this section, any remaining money in the  |
| 20 | municipal land bank account must be applied to reduce any bonded<br>indebtedness or obligations incurred to effectuate the purposes  |
| 22 | of this subchapter.  |
| 24 | Sec. 2. 36 MRSA c. 711-B is enacted to read:   |
| 26 | CHAPTER 711-B  |
| 28 | MUNICIPAL REAL ESTATE TRANSFER TAX   |
| 30 | <u>§4641-0. Adoption of municipal real estate transfer tax</u>   |
| 32 | A municipality that has approved the establishment of a municipal land bank pursuant to Title 30-A, chapter 157,   |
| 34 | subchapter 6 may impose a real estate transfer tax on a<br>transferee of real estate according to the procedure and  |
| 36 | limitations of this chapter.   |
| 38 | 1. Referendum required. A municipality may impose a<br>municipal real estate transfer tax if such a tax is approved by a   |
| 40 | referendum vote conducted in accordance with Title 30-A, section<br>2528. The tax may subsequently be amended or repealed by a   |
| 42 | referendum vote conducted in the same manner.  |
| 44 | 2. Rate of tax. The referendum guestion under subsection 1   |
| 46 | must specify the proposed transfer tax rate, which may not exceed 1.5% of the taxable base of the property subject to the tax.   |
| 48 | 3. Notification to register of deeds. A municipality shall   |
|    | notify the register of deeds of the county in which the  |
| 50 | municipality is located at least 60 days prior to the effective  |

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| 2  | date of a municipal real estate transfer tax. A municipality shall notify the register of deeds of the county in which the    |
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|    | municipality is located upon repeal of a municipal real estate  |
| 4  | transfer tax and the effective date of that repeal.   |
| 6  | <b>4. Liability.</b> A transferee of real property is liable for payment of the transfer tax.                                 |
| 8  |   |
| 10 | §4641-P Determination and collection of tax   |
|    | 1. Taxable base. The base to which the municipal real   |
| 12 | estate transfer tax under this chapter applies is the declared value of the property under section 4641-D, except that if the |
| 14 | property subject to the tax is the primary residence of the   |
|    | transferee, an amount not less than \$50,000 must be subtracted   |
| 16 | from the base. An amount more than \$50,000 may be subtracted by  |
|    | a municipality if the larger amount is specified in the   |
| 18 | referendum question.  |
| 20 | 2. Exemptions. The following transfers are not subject to   |
|    | a municipal real estate transfer tax:   |
| 22 |   |
|    | A. A transfer that is exempt from the state real estate   |
| 24 | transfer tax under section 4641-C;  |
| 26 | B. A transfer in which the transferee is a resident of the  |
|    | municipality and is acquiring a property to be used as the  |
| 28 | <u>transferee's primary residence within that same</u><br>municipality; and   |
| 30 |   |
|    | C. A transfer in which the property acquired is contiguous  |
| 32 | to the transferee's primary residence or place of business  |
|    | for the purpose of enlarging that property for the  |
| 34 | transferee's occupancy or existing business activities.   |
|    |   |
| 36 | 3. Action by register of deeds. Within 30 days of   |
|    | recording a transfer of real property within a municipality with  |
| 38 | a municipal real estate transfer tax in effect, the register of   |
|    | deeds of the county in which the municipality is located shall  |
| 40 | notify that municipality of the transfer. The register shall  |
|    | provide the following information to the municipality:  |
| 42 |   |
|    | A. The name and address of the transferee;  |
| 44 |   |
|    | B. The location of the real property subject to the   |
| 46 | transaction;  |
|    |   |
| 48 | C. The effective date of the transaction; and   |

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Page 3-LR0420(1)

D. The value of the real property as set forth in the declaration of value prescribed by section 4641-D.

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 4 4. Collection and deposit. A municipal real estate transfer tax imposed under this chapter must be paid to the tax
 6 collector in the municipality in which the real estate is located.

Notwithstanding notification provisions in subsection 3, payment of the municipal real estate transfer tax is due no later than
 the date established by chapter 711-A for payment of the state real estate transfer tax.

The municipal tax collector shall deposit all revenue received from the municipal real estate transfer tax in the municipal land bank account in accordance with Title 30-A, chapter 157, subchapter 6.

5. Municipal authority. A municipality may adopt 18 provisions necessary for the proper administration of a real 20 estate transfer tax, including provisions concerning the determination of the tax, the imposition of interest on payments and the penalties for failing to comply with the tax provisions. 22 To the extent possible, provisions to administer this chapter must be identical to corresponding provisions in chapter 711-A. 24 The municipality may, when necessary, secure payment of the tax and any related penalties or interest in accordance with section 26 552. 28

## SUMMARY

32 This bill authorizes municipalities to impose a municipal real estate transfer tax. It requires a municipality to approve 34 such a tax and establishment of a land bank program through the municipal referendum process. It places restrictions on the tax 36 rate and uses of the tax.