

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

*m*  
**RUE**

L.D. 1165

DATE: 6/3/05

(Filing No. H-634)

TAXATION

Majority

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
122ND LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 808, L.D. 1165, Bill, "An Act To Encourage the Preservation of Affordable Housing"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**Sec. 1. 30-A MRSA §4722, sub-§1, ¶X**, as amended by PL 2003, c. 704, §5, is further amended to read:

X. Advise the Governor and other officials of State Government on matters relating to energy conservation; and

**Sec. 2. 30-A MRSA §4722, sub-§1, ¶Y**, as enacted by PL 2003, c. 704, §6, is amended to read:

Y. Expand access to housing for young professionals and young families. The Maine State Housing Authority shall develop recommendations to create or modify programs with the goal of expanding access to housing for young professionals and young families. The Maine State Housing Authority shall specifically consider strategies to assist renters and first-time home buyers who are under 35 years of age and explore options for linking assistance levels to student loan obligations. The Maine State Housing Authority shall collaborate with the Maine Community College System, vocational high schools and community action programs to encourage the development of affordable housing in high-cost housing areas of the State.

2008

2 (1) The Maine State Housing Authority shall report its  
4 findings and recommendations regarding expanded access  
6 to housing for young professionals and young families  
8 to the Future for Youth in Maine State Work Action  
10 Tactics Team established in Title 5, section 13161 and  
12 to the joint standing committee of the Legislature  
14 having jurisdiction over housing matters no later than  
16 January 15, 2005 and annually thereafter; and

10 **Sec. 3. 30-A MRSA §4722, sub-§1, ¶Z is enacted to read:**

12 Z. Certify transfers of multifamily affordable housing  
14 property that qualify for the deduction under Title 36,  
16 section 5122, subsection 2, paragraph U or Title 36, section  
18 5200-A, subsection 2, paragraph P. The affordability  
20 restrictions that apply under this paragraph must be  
contained in a declaration signed by the transferee and  
recorded in the appropriate registry of deeds at the time of  
the sale or transfer.

22 (1) For the purposes of this paragraph, "multifamily  
24 affordable housing property" means a decent, safe and  
26 sanitary dwelling, apartment building or other living  
28 accommodation that includes at least 6 units, that  
meets at least one of the following affordability  
restrictions and for which those affordability  
restrictions, as applicable, expire in 10 years or less  
from the date of the sale or transfer of the property:

30 (a) At least 20% of the units have restricted  
32 rents affordable to households earning no more  
34 than 80% of the area median income as determined  
by the United States Department of Housing and  
Urban Development;

36 (b) The property is assisted by the United States  
38 Department of Housing and Urban Development, the  
40 United States Department of Agriculture or the  
Maine State Housing Authority; or

42 (c) The property qualifies for low-income housing  
44 credits under Section 42 of the Code.

46 (2) For the purposes of this paragraph, property does  
48 not qualify as multifamily affordable housing property  
unless:

50 (a) The transferee agrees to maintain the  
property as multifamily affordable housing

2 property for an additional 30 years from the  
3 scheduled expiration;

4 (b) If the existing federal, state or other  
5 assistance is not available to maintain the  
6 property as multifamily affordable housing  
7 property, the transferee agrees to ensure that 1/2  
8 of the units are affordable to persons at 60% of  
9 the area median income as determined by the United  
10 States Department of Housing and Urban Development  
11 for 30 years from the expiration of the  
12 then-existing affordability restrictions; or

13 (c) The transferee agrees to an alternative  
14 affordability agreement approved by the Maine  
15 State Housing Authority.

16  
17 **Sec. 4. 36 MRSA §5122, sub-§2, ¶Q, as corrected by RR 2003, c.**  
18 **1, §38, is amended to read:**

19  
20 Q. A fraction of any amount previously added back by the  
21 taxpayer to federal adjusted gross income pursuant to  
22 subsection 1, paragraph N.

23  
24 (1) With respect to property first placed in service  
25 during taxable years beginning in 2002, the adjustment  
26 under this paragraph is available for each year during  
27 the recovery period, beginning 2 years after the  
28 beginning of the taxable year during which the property  
29 was first placed in service. The fraction is equal to  
30 the amount added back under subsection 1, paragraph N  
31 with respect to the property, divided by the number of  
32 years in the recovery period minus 2.

33  
34 (2) With respect to all other property, for the  
35 taxable year immediately following the taxable year  
36 during which the property was first placed in service,  
37 the fraction allowed by this paragraph is equal to 5%  
38 of the amount added back under subsection 1, paragraph  
39 N with respect to the property. For each subsequent  
40 taxable year during the recovery period, the fraction  
41 is equal to 95% of the amount added back under  
42 subsection 1, paragraph N with respect to the property,  
43 divided by the number of years in the recovery period  
44 minus 2.

45  
46 In the case of property expensed pursuant to Section 179 of  
47 the Code, the term "recovery period" means the recovery  
48 period that would have been applicable to the property had  
49 Section 179 not been applied; and  
50

REG.

2           **Sec. 5. 36 MRSA §5122, sub-§2, ¶T**, as amended by PL 2003, c.  
3 705, §12 and affected by §14, is further amended to read:

4  
5           T. For income tax years beginning on or after January 1,  
6 2002 and before January 1, 2004, an amount equal to the  
7 total premiums spent for long-term care insurance policies  
8 certified under Title 24-A, section 5075-A as long as the  
9 amount subtracted is reduced by the long-term care premiums  
10 claimed as an itemized deduction pursuant to section 5125.

11  
12           For income tax years beginning on or after January 1, 2004,  
13 an amount equal to the total premiums spent for qualified  
14 long-term care insurance contracts certified under Title  
15 24-A, section 5075-A, as long as the amount subtracted is  
16 reduced by any amount claimed as a deduction for federal  
17 income tax purposes in accordance with the Code, Section  
18 162(1) and by the long-term care premiums claimed as an  
19 itemized deduction pursuant to section 5125; and

20  
21           **Sec. 6. 36 MRSA §5122, sub-§2, ¶U** is enacted to read:

22  
23           U. For income tax years beginning on or after January 1,  
24 2006, to the extent included in federal adjusted gross  
25 income and not otherwise removed from Maine taxable income,  
26 an amount equal to the total of capital gains and ordinary  
27 income resulting from depreciation recapture determined in  
28 accordance with the Code, Sections 1245 and 1250 that is  
29 realized upon the sale of property certified as multifamily  
30 affordable housing property by the Maine State Housing  
31 Authority in accordance with Title 30-A, section 4722,  
32 subsection 1, paragraph Z.

33           **Sec. 7. 36 MRSA §5200-A, sub-§2, ¶L**, as amended by PL 2003, c.  
34 20, Pt. EE, §3, is further amended to read:

35  
36           L. An amount equal to the absolute value of any net  
37 operating loss arising from a tax year beginning or ending  
38 in 2001 for which federal taxable income was increased under  
39 subsection 1, paragraph M and that, pursuant to Section 102  
40 of the federal Job Creation and Worker Assistance Act of  
41 2002, Public Law 107-147, was carried back more than 2 years  
42 to the taxable year for federal income tax purposes, but  
43 only to the extent that:

44  
45           (1) Maine taxable income is not reduced below zero;

46  
47           (2) The taxable year is either within 2 years prior to  
48 the year in which the loss arose or within the

808

COMMITTEE AMENDMENT "A" to H.P. 808, L.D. 1165

allowable federal period for carry-over of net operating losses; and

(3) The amount has not been previously used as a modification pursuant to this subsection; and

Sec. 8. 36 MRSA §5200-A, sub-§2, ¶M, as repealed and replaced by PL 2003, c. 479, §6, is amended to read:

M. A fraction of any amount previously added back by the taxpayer to federal taxable income pursuant to subsection 1, paragraph N.

(1) With respect to property first placed in service during taxable years beginning in 2002, the adjustment under this paragraph is available for each year during the recovery period, beginning 2 years after the beginning of the taxable year during which the property was first placed in service. The fraction is equal to the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

(2) With respect to all other property, for the taxable year immediately following the taxable year during which the property was first placed in service, the fraction allowed by this paragraph is equal to 5% of the amount added back under subsection 1, paragraph N with respect to the property. For each subsequent taxable year during the recovery period, the fraction is equal to 95% of the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

In the case of property expensed pursuant to Section 179 of the Code, the term "recovery period" means the recovery period that would have been applicable to the property had Section 179 not been applied; and

Sec. 9. 36 MRSA §5200-A, sub-§2, ¶P is enacted to read:

P. For income tax years beginning on or after January 1, 2006, to the extent included in federal taxable income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing

**REG.**

COMMITTEE AMENDMENT "A" to H.P. 808, L.D. 1165

Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph Z.

**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Maine Revenue Services 0002**

Initiative: Provides funds for the computer programming costs associated with the income tax exemption for capital gains and depreciation recapture related to the transfer of certain affordable housing property.

<b>GENERAL FUND</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$20,000	\$0
<b>GENERAL FUND TOTAL</b>	<u>\$20,000</u>	<u>\$0'</u>

**SUMMARY**

This amendment restructures the provisions of the bill to improve administration of the exemption from the income tax capital gains and depreciation recapture associated with the sale of multifamily affordable housing property. The amendment also deletes the real estate transfer tax exemption for affordable housing from the bill. The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



# 122nd MAINE LEGISLATURE

LD 1165

LR 1927(02)

## An Act To Encourage the Preservation of Affordable Housing

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

### Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
<b>Net Cost (Savings)</b>				
General Fund	\$58,114	\$128,953	\$135,258	\$142,021
<b>Appropriations/Allocations</b>				
General Fund	\$20,000	\$0	\$0	\$0
<b>Revenue</b>				
General Fund	(\$38,114)	(\$128,953)	(\$135,258)	(\$142,021)
Other Special Revenue Funds	(\$2,048)	(\$6,930)	(\$7,419)	(\$7,790)

#### Fiscal Detail and Notes

This bill is expected to decrease General Fund revenue by \$38,114 in fiscal year 2005-06 and \$128,953 in fiscal year 2006-07. This bill also includes a General Fund appropriation of \$20,000 for the computer programming costs associated with the income tax exemption.