

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1301

H.P. 898

House of Representatives, March 15, 2005

An Act To Support Affordable Housing

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KOFFMAN of Bar Harbor.
Cosponsored by Representatives: CANAVAN of Waterville, PELLETIER-SIMPSON of Auburn, PERCY of Phippsburg, PINGREE of North Haven, PIOTTI of Unity, SAMPSON of Auburn, WATSON of Bath, Senator: DAMON of Hancock.

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

4 **Sec. 1. 36 MRSA c. 216** is enacted to read:

6 **CHAPTER 216**

8 **LOCAL OPTION REAL ESTATE SALES TAX**

10 **§1891. Definitions**

12 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. **Eligible individual or family.** "Eligible individual or family" means an individual or family whose total adjusted gross income is less than 120% of the median income for the United States Department of Labor district in which the eligible property was sold.

20 2. **Eligible property.** "Eligible property" means single-family residential real property sold for more than \$1,000,000.

24 3. **Participating municipality.** "Participating municipality" means a municipality that elects to impose a local option real estate sales tax pursuant to section 1892.

28 4. **Local option real estate sales tax.** "Local option real estate sales tax" means the real estate sales tax imposed by a participating municipality on eligible property pursuant to section 1892.

32 **§1892. Imposition and collection of local option real estate sales tax**

36 A participating municipality may impose a local option real estate sales tax of 1% on the sale of eligible property. The local option real estate sales tax must be collected in the same manner and at the same time as the tax collected pursuant to section 4641-B, subsection 1. The tax imposed pursuant to this section is in addition to the real estate transfer tax imposed pursuant to section 4641-A.

44 **§1893. Determination and payment of municipal share; administrative costs**

46 On the last day of each month, the register of deeds shall identify the amount of revenue under this chapter attributable to each participating municipality, based on the location of the properties being transferred and the amount of tax collected

2 under section 1892 for those properties minus the costs of
3 administering this chapter, and certify the net amount due the
4 municipality to the county treasurer. Each county treasurer
5 shall, on or before the 10th day of each month, pay over to each
6 municipality that municipality's share of the tax collected
7 pursuant to this chapter for the previous month. If the tax
8 collected is not paid over by the 10th day of the month, the
9 municipality may impose interest pursuant to section 186. The
10 amount subtracted for the administration of this section may not
11 exceed 2% of the total taxes collected.

12 **§1894. Use of revenue for affordable housing**

14 Funds received pursuant to section 1893 by a participating
15 municipality must be managed as prescribed in this section.

16 **1. Use for development of affordable housing.** Each
17 participating municipality shall deposit the revenue received
18 pursuant to section 1893 in a segregated account. Funds within
19 the segregated account must be disbursed to:

22 A. A housing authority within the municipality;

24 B. A nonprofit housing trust or nonprofit housing
25 corporation located in the municipality that is organized in
26 this State under Title 13-B and that qualifies for the tax
27 exemption under 26 United States Code, Section 501(c); or

28 C. A nonprofit organization established for the purpose of
29 building, buying or developing affordable rental and
30 owner-occupied housing in the municipality for eligible
31 individuals or families.

34 If the municipality does not have any of the organizations listed
35 in paragraphs A, B and C, then the municipality shall transfer
36 all funds received pursuant to section 1893 to the Maine State
37 Housing Authority.

38 **2. Requirements of housing organization.** The organization
39 receiving funds pursuant to subsection 1, paragraph A, B or C
40 shall develop affordable housing in the municipality from which
41 the funds were received. At least 30% of the housing developed
42 pursuant to this subsection must be considered affordable
43 housing, as determined by the Maine State Housing Authority. The
44 organization shall maintain equity in the affordable housing at a
45 rate set by the organization and shall include in the deed to the
46 affordable housing the right of first refusal.

48 **3. Prohibited use.** A municipality shall determine its
49 annual budget and assessment without consideration of the amount
50 of affordable housing.

2 received pursuant to section 1893. Revenue generated pursuant to
3 this section may not be used to supplant local funds.

4 **4. Effect on revenue sharing and other state-aid programs.**
5 Revenue received pursuant to section 1893 may not be considered
6 to be receipts from the taxes imposed under this Part for the
7 purpose of transfers to the Local Government Fund under Title
8 30-A, section 5681. Revenue received pursuant to section 1893
9 may not be used to reduce or eliminate any funding otherwise due
10 the municipality under any provision of law providing aid to the
11 participating municipality, including, but not limited to, aid
12 for schools, roads, public assistance or jails.

14 **§1895. Referendum**

16 The question of whether to impose a local option real estate
17 sales tax must be submitted to the legal voters of a municipality
18 that seeks to impose the local option real estate sales tax.

20 The petition process and the voting at elections held in
21 cities, towns and plantations must be held and conducted in
22 accordance with Title 30-A, sections 2528, 2529 and 2532 even if
23 the municipality has not accepted the provisions of section
24 2528. The voting at elections held in municipalities must be
25 held and conducted in accordance with Title 21-A. The municipal
26 clerk shall make a return of the results, certify the results and
27 send them to the Secretary of State. The Secretary of State shall
28 forward the results to the register of deeds for that
29 municipality.

30 The local option real estate sales tax may be discontinued
31 by referendum conducted in the same manner as the referendum
32 adopting the tax under this section.

34 **§1896. Effective date of tax**

36 The local option real estate sales tax authorized by this
37 chapter takes effect 120 days after the municipal referendum vote
38 under section 1895 if it is accepted by a majority of the local
39 voters voting at the election and the total number of votes cast
40 equals or exceeds 20% of the total number of votes cast in that
41 municipality in the most recent gubernatorial election.

44 **SUMMARY**

46 This bill allows a municipality to impose a local option
47 real estate sales tax of 1% on the sale of property for more than
48 \$1,000,000. Revenue from the tax must be distributed by the
49 municipality levying the tax to local nonprofit housing
50

2 organizations for the purpose of building, buying or developing
affordable rental and owner-occupied housing in the municipality
4 for eligible individuals or families. An "eligible individual or
family" is defined as an individual or family whose total
6 adjusted gross income is less than 120% of the median income for
the United States Department of Labor district in which the
eligible property was sold. If the municipality does not have a
8 local nonprofit housing organization, the municipality must send
the revenue to the Maine State Housing Authority.