

MAINE STATE LEGISLATURE

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Majority

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TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 218, L.D. 262, Bill, "An Act To Amend the Credit for Rehabilitation of Historic Properties"

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

'Sec. 1. 27 MRSA §511 is enacted to read:

§511. Support for state rehabilitation tax credits

1. Program. The director shall administer, in consultation with the Department of Administrative and Financial Services, Bureau of Revenue Services, a program in support of state rehabilitation tax credits for income-producing historic structures pursuant to Title 36, section 5219-BB.

2. Certification. The director shall certify information necessary for applicants to demonstrate eligibility for an income tax credit under Title 36, section 5219-BB, including, but not limited to:

A. That rehabilitations of certified historic structures are consistent with the United States Secretary of the Interior's Standards for Rehabilitation;

B. That historic structures are listed in or are eligible for listing in the National Register of Historic Places or are in certified local districts; and

C. The amount of qualified rehabilitation expenditures associated with each project for which an income tax credit will be claimed.

When performing the certification required by this subsection, the director shall interpret the provisions of this subsection in a manner consistent with the provisions of the federal Internal Revenue Code, Section 47.

3. Administration. The director may provide forms, instructions and guidelines necessary for an applicant to apply for certification under the program.

COMMITTEE AMENDMENT

1 4. Fees. The director may establish a schedule of processing fees, the proceeds of
2 which must be used by the director solely for the support of the administration of
3 certifications under this section. The processing fees collected by the director must be
4 placed in a nonlapsing historic rehabilitation certification fund to be used solely by the
5 director for the administration of certifications required under this section.

6 5. Reports. The Maine Historic Preservation Commission shall issue the following
7 reports.

8 A. The Maine Historic Preservation Commission shall issue a report by March 1st of
9 each year that identifies the approved and certified state historic preservation
10 certification applications and documents the number of affordable housing units
11 created, total housing units created, number of affordable housing units preserved,
12 total aggregate square footage rehabilitated and developed, total aggregate square
13 footage of housing, total aggregate square footage of affordable housing, total
14 certified rehabilitation expenses and total new construction expenses.

15 B. By January 15, 2013, the Maine Historic Preservation Commission shall analyze
16 the use of tax credits provided under Title 36, section 5219-BB as an incentive for
17 rehabilitation of historic structures and economic development, analyze tax and other
18 revenues generated by the rehabilitation to determine in relation to the cost of the
19 credit if they exceed the costs of the credit and report the results of its analysis to the
20 joint standing committee of the Legislature having jurisdiction over taxation matters
21 with recommendations as to whether the credits under Title 36, section 5219-BB
22 should be extended, repealed or amended. The joint standing committee may submit
23 legislation related to the report.

24 **Sec. 2. 36 MRSA §4641-B, sub-§4,** as amended by PL 2007, c. 240, Pt. H, §1
25 and c. 427, §1, is repealed and the following enacted in its place:

26 4. Distribution of State's share of proceeds. The State Tax Assessor shall pay all
27 net receipts received pursuant to this section to the Treasurer of State and shall at the
28 same time provide the Treasurer of State with documentation showing the amount of
29 revenues derived from the tax imposed by section 4641-A, subsection 1 and the amount
30 of revenues derived from the tax imposed by section 4641-A, subsection 2.

31 A. The Treasurer of State shall credit 1/2 of the revenues derived from the tax
32 imposed by section 4641-A, subsection 1 to the General Fund and shall monthly pay
33 the remaining 1/2 of such revenues to the Maine State Housing Authority, which
34 shall deposit the funds in the Housing Opportunities for Maine Fund created in Title
35 30-A, section 4853, except that:

36 (1) In fiscal year 2003-04, fiscal year 2004-05 and fiscal year 2005-06,
37 \$7,500,000 of the remaining 1/2 of those revenues must be transferred to the
38 General Fund before any payments are made to the Maine State Housing
39 Authority;

40 (2) In fiscal year 2006-07, \$7,687,067 of the remaining 1/2 of those revenues
41 must be transferred to the General Fund before any payments are made to the
42 Maine State Housing Authority;

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1 (3) In fiscal year 2007-08 and fiscal year 2008-09, \$5,000,000 of the remaining
2 1/2 of those revenues must be transferred to the General Fund before any
3 payments are made to the Maine State Housing Authority;

4 (4) In fiscal year 2008-09, \$90,000 of the remaining 1/2 of those revenues must
5 be transferred to the General Fund before any payments are made to the Maine
6 State Housing Authority;

7 (5) In fiscal year 2009-10, \$3,320,000 of the remaining 1/2 of those revenues
8 must be transferred to the General Fund before any payments are made to the
9 Maine State Housing Authority;

10 (6) In fiscal year 2010-11, \$3,720,000 of the remaining 1/2 of those revenues
11 must be transferred to the General Fund before any payments are made to the
12 Maine State Housing Authority;

13 (7) In fiscal year 2011-12, \$3,830,000 of the remaining 1/2 of those revenues
14 must be transferred to the General Fund before any payments are made to the
15 Maine State Housing Authority; and

16 (8) In fiscal year 2012-13, \$3,950,000 of the remaining 1/2 of those revenues
17 must be transferred to the General Fund before any payments are made to the
18 Maine State Housing Authority.

19 B. Neither the Governor nor the Legislature may divert the revenues payable to the
20 Housing Opportunities for Maine Fund to any other fund or for any other use. Any
21 proposal to enact or amend a law to allow distribution of less than 1/2 of the revenues
22 derived from the tax imposed by section 4641-A, subsection 1 to the Housing
23 Opportunities for Maine Fund, as adjusted under paragraph A, must be submitted to
24 the Legislative Council and to the joint standing committee of the Legislature having
25 jurisdiction over affordable housing matters at least 30 days prior to any vote or
26 public hearing on the proposal.

27 C. The Treasurer of State shall credit to the General Fund all of the revenues derived
28 from the tax imposed by section 4641-A, subsection 2.

29 **Sec. 3. 36 MRSA §5219-R, sub-§1**, as enacted by PL 2005, c. 519, Pt. H, §1, is
30 amended to read:

31 **1. Credit allowed.** A taxpayer is allowed a credit against the tax imposed under this
32 Part equal to the amount of credit claimed by the taxpayer for the taxable year under
33 Section 47 of the Code with respect to expenditures incurred after December 31, 1999 for
34 a certified historic structure located in the State. The credit is nonrefundable and is
35 limited to \$100,000 annually per taxpayer. A credit received under this section is subject
36 to the same recapture provisions, as apply to a credit received under Section 47 of the
37 Code and to any available federal carry-back or carry-forward provisions. A credit may
38 not be claimed under this subsection for expenditures incurred after December 31, 2007.

39 **Sec. 4. 36 MRSA §5219-BB** is enacted to read:

1 **§5219-BB. Credit for rehabilitation of historic properties after 2007**

2 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
3 following terms have the following meanings.

4 A. "Affordable housing" means a decent, safe and sanitary dwelling, apartment or
5 other living accommodation for a household whose income does not exceed 60% of
6 the median income for the area as defined by the United States Department of
7 Housing and Urban Development under the United States Housing Act of 1937,
8 Public Law 412, 50 Stat. 888, Section 8, as amended.

9 B. "Certified historic structure" means a structure that has been certified as a historic
10 structure under Title 27, section 511.

11 C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation
12 expenditure made between January 1, 2008 and December 31, 2013 certified by the
13 director under Title 27, section 511. For purposes of subsection 2, paragraph B,
14 qualified rehabilitation expenditures incurred in the certified rehabilitation of a
15 certified historic structure located in the State do not include a requirement that the
16 certified historic structure be substantially rehabilitated.

17 D. "Director" means the director of the Maine Historic Preservation Commission.

18 **2. Credit allowed.** A taxpayer is allowed a credit against the tax imposed under this
19 Part:

20 A. Equal to 25% of the taxpayer's certified qualified rehabilitation expenditures for
21 which a tax credit is claimed under Section 47 of the Code for a certified historic
22 structure located in the State; or

23 B. Equal to 25% of the certified qualified rehabilitation expenditures of a taxpayer
24 who incurs not less than \$50,000 and up to \$250,000 in certified qualified
25 rehabilitation expenditures in the rehabilitation of a certified historic structure located
26 in the State and who does not claim the federal credit with regard to those
27 expenditures The credit may be claimed for the taxable year in which the certified
28 historic structure is placed in service, except that a credit may not be claimed for
29 expenditures incurred before January 1, 2008 or after December 31, 2013.

30 A taxpayer is allowed a credit under paragraph A or B but not both.

31 **3. Increased credit for affordable housing.** The credit allowed under this section
32 is increased to 30% of certified qualified rehabilitation expenditures if the project is also
33 an affordable housing project. The 30% credit is available only for projects for which at
34 least 50% of the aggregate square feet of the completed project is housing of which at
35 least 50% of the aggregate square feet of the completed housing creates new affordable
36 housing or for which at least 33% of the aggregate square feet of the completed project
37 creates new affordable housing. Affordable housing created using the 30% credit must
38 remain affordable for 30 years pursuant to a mechanism acceptable to the Maine State
39 Housing Authority. The mechanism must provide that if the property does not remain
40 affordable for 30 years, the owner of the property must pay to the Housing Opportunities
41 for Maine Fund under Title 30-A, section 4853 an amount equal to the credit increase
42 allowed to the taxpayer under this subsection plus interest at the rate of 7% per annum
43 beginning when the property is placed in service and ending upon payment.

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1 By August 1, 2009 and annually every August 1st thereafter to 2013, the Maine Historic
2 Preservation Commission and the Maine State Housing Authority shall review the report
3 issued pursuant to Title 27, section 511, subsection 5, paragraph A to determine the
4 percentage of the total aggregate square feet rehabilitated and developed using both the
5 25% credit under subsection 2 and the 30% credit under this subsection that constitutes
6 new affordable housing. If the total aggregate square feet of new affordable housing does
7 not equal or exceed 30% of the total aggregate square feet of rehabilitated and developed
8 completed projects eligible for a credit under this section, the commission and the
9 authority shall notify the State Tax Assessor and the credit authorized in subsection 2,
10 paragraph B is increased by 1% for that tax year and for each succeeding year in which
11 the 30% affordable housing threshold is not reached until a maximum credit rate of 35%
12 is reached.

13 **4. Maximum credit.** The credit allowed pursuant to this section may not exceed
14 \$5,000,000 for each certified rehabilitation project under Section 47 of the Code placed
15 into service in the State during the taxable year for which a credit is claimed under this
16 section.

17 **5. Timing of credit.** Twenty-five percent of the credit allowed pursuant to this
18 section must be taken in the taxable year the property is placed into service and 25% must
19 be taken in each of the next 3 taxable years.

20 **6. Credit refundable.** The credit allowed under this section is fully refundable.

21 **7. Allocation of credit.** Credits allowed to a partnership, a limited liability company
22 taxed as a partnership or multiple owners of property must be passed through to the
23 partners, members or owners respectively pro rata in the same manner as under section
24 5219-G, subsection 1 or pursuant to an executed agreement among the partners, members
25 or owners documenting an alternate allocation method.

26 **8. Recapture.** A credit received under this section is subject to the same recapture
27 provisions as apply to a credit received under Section 47 of the Code.

28 **9. Limitation.** A taxpayer who is eligible to claim a credit under section 5219-R,
29 whether or not a credit is actually claimed, may not claim a credit under this section. In
30 addition, a credit may not be claimed under this section with respect to expenditures
31 incurred for rehabilitation of Building No. 2 in the Lockwood Mill Historic District in the
32 City of Waterville.

33 **Sec. 5. Appropriations and allocations.** The following appropriations and
34 allocations are made.

35 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
36 **Revenue Services - Bureau of 0002**

37 Initiative: Provides one-time funds for the computer programming costs associated with
38 the tax credit for the rehabilitation of historic properties.

39	GENERAL FUND	2007-08	2008-09
40	All Other	\$0	\$44,000

41

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1	GENERAL FUND TOTAL	\$0	\$44,000
2	ADMINISTRATIVE AND FINANCIAL		
3	SERVICES, DEPARTMENT OF		
4	DEPARTMENT TOTALS	2007-08	2008-09
5			
6	GENERAL FUND	\$0	\$44,000
7			
8	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$44,000
9	HISTORIC PRESERVATION COMMISSION, MAINE		
10	Historic Commercial Rehabilitation Fund N029		
11	Initiative: Establishes a base allocation for the Historic Commercial Rehabilitation Fund		
12	to support the administration costs associated with certifying rehabilitations of certified		
13	historic structures.		
14	OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
15	All Other	\$0	\$500
16			
17	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500
18	HISTORIC PRESERVATION COMMISSION,		
19	MAINE		
20	DEPARTMENT TOTALS	2007-08	2008-09
21			
22	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
23			
24	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$500
25	SECTION TOTALS	2007-08	2008-09
26			
27	GENERAL FUND	\$0	\$44,000
28	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
29			
30	SECTION TOTAL - ALL FUNDS	\$0	\$44,500
31			

SUMMARY

1
2 This amendment changes future historic rehabilitation tax credits a taxpayer may take
3 if the taxpayer received a credit under the United States Internal Revenue Code from an
4 amount equal to the credit the taxpayer received under the Code to an amount equal to
5 25% of the qualified expenditures incurred. This amendment also allows a historic
6 rehabilitation tax credit for a taxpayer who did not receive a credit under the United
7 States Internal Revenue Code of 25% of qualified expenditures if the taxpayer expended
8 from \$50,000 to \$250,000 on a certified historic structure. This amendment also provides
9 for a historic rehabilitation tax credit of 30% for qualified projects that create new
10 affordable housing and provides for a ramp-up from 30% to 35% if the affordable
11 housing goal is not achieved. This amendment makes the credit refundable and authorizes
12 the State Historic Preservation Officer to establish a schedule of fees for certifying the
13 historic structures and certifying rehabilitations in the State, the proceeds of which will go
14 to administering the program. The amendment sunsets the credit in 2013. The Maine
15 Historic Preservation Commission is required to certify qualifying projects and
16 expenditures and to submit reports related to the use of the credit to the joint standing
17 committee of the Legislature having jurisdiction over taxation matters by January 15,
18 2013.

FISCAL NOTE REQUIRED
(See Attached)



123rd MAINE LEGISLATURE

LD 262

LR 673(04)

An Act To Amend the Credit for Rehabilitation of Historic Properties

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

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	\$41,098	(\$2,585,596)	(\$1,504,642)
Appropriations/Allocations				
General Fund	\$0	\$44,000	\$0	\$0
Other Special Revenue Funds	\$0	\$500	\$500	\$500
Revenue				
General Fund	\$0	\$2,902	\$2,585,596	\$1,504,642
Other Special Revenue Funds	\$0	(\$94,778)	(\$3,360,284)	(\$3,841,518)

Fiscal Detail and Notes

The General Fund income tax loss associated with the credit for the rehabilitation of historic properties is estimated to be \$87,098 in fiscal year 2008-09, \$734,404 in fiscal year 2009-10 and \$2,215,358 in fiscal year 2010-11. The estimated cost of this credit outside the forecast period is \$6,600,000 in fiscal year 2011-12, \$10,800,000 in fiscal year 2012-13 and \$14,400,000 in fiscal year 2013-14.

This bill also amends the distribution of real estate transfer tax proceeds, increasing General Fund revenue by \$90,000 in fiscal year 2008-09, by \$3,320,000 in fiscal year 2009-10 and by \$3,720,000 in fiscal year 2010-11, resulting in a corresponding decrease in Other Special Revenue Funds dedicated to the Housing Opportunities for Maine Fund.

The bill includes a one-time General Fund appropriation of \$44,000 in fiscal year 2008-09 for the computer programming costs associated with the income tax credit.

The bill includes an Other Special Revenue Funds base allocation of \$500 in fiscal year 2008-09 for the costs to the Maine Historic Preservation Commission associated with administering the tax credit program that will be offset by the provision in the bill that allows for the establishment of processing fees to be used to support the administration of the program.

Provisions of this bill are also included in Committee Amendment "A" and Committee Amendment "B" to LD 2173, the Governor's 2008-2009 Supplemental Budget.