

MAINE STATE LEGISLATURE

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No. 761

H.P. 582

House of Representatives, February 13, 2007

**An Act To Enable 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. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RECTOR of Thomaston.
Cosponsored by Senator SAVAGE of Knox and
Representatives: BEAUDETTE of Biddeford, EBERLE of South Portland, KOFFMAN of Bar
Harbor, LORING of the Penobscot Nation, PINGREE of North Haven, SAMSON of Auburn.

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

2 **Sec. 1. 30-A MRSA c. 157, sub-c. 6** is enacted to read:

3 **SUBCHAPTER 6**

4 **MUNICIPAL LAND BANKS**

5 **§3301. Establishment of municipal land bank**

6 A municipality may establish a municipal land bank in accordance with this section.

7 **1. Referendum required.** A municipal land bank may be established under this
8 section only with approval by a referendum vote conducted in accordance with section
9 2528. Once established, a referendum vote conducted in a similar manner is required to
10 alter or repeal provisions pertaining to the land bank. The municipal land bank may be
11 approved as a separate measure or as part of a referendum adopting a municipal real
12 estate transfer tax under Title 36, section 4661.

13 **2. Land bank account.** A municipality establishing a municipal land bank under
14 this section shall maintain a separate account to receive all tax revenue collected under
15 Title 36, section 4662, subsection 3. A municipality may accept money from other public
16 and private sources for deposit in the municipal land bank account. Interest accrued by
17 money deposited into the account must be credited to the account. All deposits into the
18 municipal land bank account may be used only for the purposes permitted under this
19 subchapter.

20 **3. Advisory board.** A municipality that has established a municipal land bank under
21 this section shall create an advisory board, in accordance with this Title, to review and
22 make recommendations on proposed acquisitions using money from the land bank
23 account.

24 **4. Use of funds.** Funds in a municipal land bank account established pursuant to
25 subsection 2 are restricted to the following uses:

26 **A.** Acquiring interest in or managing land within the municipality for the purposes
27 of:

28 **(1)** Conserving land or maritime resources;

29 **(2)** Maintaining or improving opportunities for recreation and environmental
30 education within the municipality; and

31 **(3)** Protecting the physical, historical, social or economic character of the
32 community, including working waterfront; and

33 **B.** Any other purposes that are incidental to the purposes permitted under paragraph
34 A, including administrative and land maintenance costs.

1 A municipality may not acquire interest in land under this subchapter for purposes that
2 are inconsistent with goals established in that municipality's comprehensive plan as
3 defined in section 4301, subsection 3.

4 **5. Public hearing required.** Interests or rights in real property may not be acquired
5 under this subchapter until a public hearing is held and budget authority approved
6 pursuant to this Title. A municipality may enter into a conditional purchase agreement
7 prior to a public hearing and budget approval.

8 **6. Termination.** Upon dissolution of a municipal land bank established under this
9 section, any remaining money in the municipal land bank account established pursuant to
10 subsection 2 must be applied to reduce any bonded indebtedness or obligations incurred
11 to effectuate the purposes of this subchapter.

12 **Sec. 2.** 36 MRSA c. 712-A is enacted to read:

13 **CHAPTER 712-A**

14 **MUNICIPAL REAL ESTATE TRANSFER TAX**

15 **§4661. Adoption of municipal real estate transfer tax**

16 A municipality that has approved the establishment of a municipal land bank
17 pursuant to Title 30-A, chapter 157, subchapter 6 may impose a municipal real estate
18 transfer tax on a transferee of real estate according to the procedure and limitations of this
19 chapter.

20 **1. Referendum required.** A municipality may impose a municipal real estate
21 transfer tax if such a tax is approved by a referendum vote conducted in accordance with
22 Title 30-A, section 2528. The tax may subsequently be amended or repealed by a
23 referendum vote conducted in the same manner.

24 **2. Rate of tax.** The referendum question under subsection 1 must specify the
25 proposed transfer tax rate, which may not exceed 1.5% of the taxable base of the property
26 subject to the tax.

27 **3. Liability.** A transferee of real property is liable for payment of the municipal real
28 estate transfer tax.

29 **4. Information.** A transferee of real property must provide the following
30 information to the municipality:

31 A. A copy of the deed or other instrument evidencing the transfer, if any, and an
32 affidavit signed under oath or under the pains and penalties of perjury by the
33 transferee or the transferee's legal representative attesting to the true and complete
34 purchase price; or

35 B. The basis, if any, upon which the transfer is claimed to be exempt in whole or in
36 part from the municipal real estate transfer tax.

1 **§4662. Determination and collection of tax**

2 **1. Taxable base.** The base to which the municipal real estate transfer tax under this
3 chapter applies is the declared value of the property under section 4641-D except that, if
4 the property subject to the tax is the primary residence of the transferee, an amount not
5 less than \$50,000 must be subtracted from the base. An amount more than \$50,000 may
6 be subtracted by a municipality if the larger amount is specified in the referendum
7 question posed pursuant to section 4661, subsection 1.

8 **2. Exemptions.** The following transfers are not subject to a municipal real estate
9 transfer tax:

10 A. A transfer that is exempt from the state real estate transfer tax under section
11 4641-C;

12 B. A transfer in which the transferee is a resident of the municipality and is acquiring
13 a property to be used as the transferee's primary residence within that same
14 municipality;

15 C. A transfer in which the transferee has not previously held an interest in a principal
16 residence; and

17 D. A transfer in which the property acquired is contiguous to the transferee's primary
18 residence or place of business for the purpose of enlarging that property for the
19 transferee's occupancy or existing business activities.

20 **3. Collection and deposit.** A municipal real estate transfer tax imposed under this
21 chapter must be paid to the tax collector in the municipality in which the real estate is
22 located.

23 Payment of the municipal real estate transfer tax is due no later than the date established
24 by chapter 711-A for payment of the state real estate transfer tax.

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

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

35

SUMMARY

36 This bill authorizes municipalities to impose a municipal real estate transfer tax and a
37 land bank program. Approval for both the tax and the land bank must be obtained by
38 referendum. This bill places restrictions on the tax rate and uses of the tax.