

MAINE STATE LEGISLATURE

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No. 1648

H.P. 1157

House of Representatives, March 22, 2007

**An Act To Exempt Housing Owned by Nonprofit Organizations for
People with Disabilities from the Municipal Service Fee Laws**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WAGNER of Lewiston.
Cosponsored by Representatives: BLANCHARD of Old Town, CONOVER of Oakland,
CRAVEN of Lewiston, KNIGHT of Livermore Falls, MILLER of Somerville, PIOTTI of
Unity, THERIAULT of Madawaska, WATSON of Bath.

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

2 **Sec. 1. 36 MRSA §652, sub-§1, ¶C**, as amended by PL 2005, c. 563, §16, is
3 further amended to read:

4 C. Further conditions to the right of exemption under paragraphs A and B are that:

5 (1) Any corporation claiming exemption under paragraph A must be organized
6 and conducted exclusively for benevolent and charitable purposes;

7 (2) A director, trustee, officer or employee of an organization claiming
8 exemption is not entitled to receive directly or indirectly any pecuniary profit
9 from the operation of that organization, excepting reasonable compensation for
10 services in effecting its purposes or as a proper beneficiary of its strictly
11 benevolent or charitable purposes;

12 (3) All profits derived from the operation of an organization claiming exemption
13 and the proceeds from the sale of its property are devoted exclusively to the
14 purposes for which it is organized;

15 (4) The institution, organization or corporation claiming exemption under this
16 subsection shall file with the tax assessors upon their request a report for its
17 preceding fiscal year in such detail as the tax assessors may reasonably require;

18 (5) An exemption is not allowed under this subsection in favor of an agricultural
19 fair association holding pari-mutuel racing meets unless it has qualified the next
20 preceding year as a recipient of a stipend from the Stipend Fund provided in Title
21 7, section 86;

22 (6) An exemption allowed under paragraph A or B for real or personal property
23 owned and occupied or used to provide federally subsidized residential rental
24 housing is limited as follows: Federally subsidized residential rental housing
25 placed in service prior to September 1, 1993 by other than a nonprofit housing
26 corporation that is acquired on or after September 1, 1993 by a nonprofit housing
27 corporation and the operation of which is not an unrelated trade or business to
28 that nonprofit housing corporation is eligible for an exemption limited to 50% of
29 the municipal assessed value of that property.

30 An exemption granted under this subparagraph must be revoked for any year in
31 which the owner of the property is no longer a nonprofit housing corporation or
32 the operation of the residential rental housing is an unrelated trade or business to
33 that nonprofit housing corporation.

34 (a) For the purposes of this subparagraph, the following terms have the
35 following meanings.

36 (i) "Federally subsidized residential rental housing" means residential
37 rental housing that is subsidized through project-based rental assistance,
38 operating assistance or interest rate subsidies paid or provided by or on
39 behalf of an agency or department of the Federal Government.

40 (ii) "Nonprofit housing corporation" means a nonprofit corporation
41 organized in the State that is exempt from tax under Section 501(c)(3) of

1 the Code and has among its corporate purposes the provision of services
2 to people of low income or the construction, rehabilitation, ownership or
3 operation of housing.

4 (iii) "Residential rental housing" means one or more buildings, together
5 with any facilities functionally related and subordinate to the building or
6 buildings, located on one parcel of land and held in common ownership
7 prior to the conversion to nonprofit status and containing 9 or more
8 similarly constructed residential units offered for rental to the general
9 public for use on other than a transient basis, each of which contains
10 separate and complete facilities for living, sleeping, eating, cooking and
11 sanitation.

12 (iv) "Unrelated trade or business" means any trade or business whose
13 conduct is not substantially related to the exercise or performance by a
14 nonprofit corporation of the purposes or functions constituting the basis
15 for exemption under Section 501(c)(3) of the Code.

16 (b) Eligibility of the following property for exemption is not affected by the
17 provisions of this subparagraph:

18 (i) Property used as a nonprofit nursing home, residential care facility
19 licensed by the Department of Health and Human Services pursuant to
20 Title 22, chapter 1663 or a community living arrangement as defined in
21 Title 30-A, section 4357-A ~~or~~, any property owned by a nonprofit
22 organization licensed or funded by the Department of Health and Human
23 Services to provide services to or for the benefit of persons with mental
24 illness or mental retardation or any property owned by a nonprofit
25 organization that provides residential rental housing to persons with
26 physical or mental disabilities;

27 (ii) Property used for student housing;

28 (iii) Property used for parsonages;

29 (iv) Property that was owned and occupied or used to provide
30 residential rental housing that qualified for exemption under paragraph A
31 or B prior to September 1, 1993; or

32 (v) Property exempt from taxation under other provisions of law; and

33 (7) In addition to the requirements of subparagraphs (1) to (4), an exemption is
34 not allowed under paragraph A or B for real or personal property owned and
35 occupied or used to provide residential rental housing that is transferred or placed
36 in service on or after September 1, 1993, unless the property is owned by a
37 nonprofit housing corporation and the operation of the residential rental housing
38 is not an unrelated trade or business to the nonprofit housing corporation.

39 For the purposes of this subparagraph, the following terms have the following
40 meanings.

41 (a) "Nonprofit housing corporation" means a nonprofit corporation
42 organized in the State that is exempt from tax under Section 501(c)(3) of the

1 Code and has among its corporate purposes the provision of services to
2 people of low income or the construction, rehabilitation, ownership or
3 operation of housing.

4 (b) "Residential rental housing" means one or more buildings, together with
5 any facilities functionally related and subordinate to the building or
6 buildings, containing one or more similarly constructed residential units
7 offered for rental to the general public for use on other than a transient basis,
8 each of which contains separate and complete facilities for living, sleeping,
9 eating, cooking and sanitation.

10 (c) "Unrelated trade or business" means any trade or business whose
11 conduct is not substantially related to the exercise or performance by a
12 nonprofit organization of the purposes constituting the basis for exemption
13 under Section 501(c)(3) of the Code.

14 **Sec. 2. 36 MRSA §652, sub-§1, ¶L**, as enacted by PL 1977, c. 487, is amended
15 to read:

16 L. Service charges.

17 (1) The owners of certain institutional and organizational real property, which is
18 otherwise exempt from state or municipal taxation, may be subject to service
19 charges when these charges are calculated according to the actual cost of
20 providing municipal services to that real property and to the persons who use that
21 property. These services shall include, without limitation:

22 (a) Fire protection;

23 (b) Police protection;

24 (c) Road maintenance and construction, traffic control, snow and ice
25 removal;

26 (d) Water and sewer service;

27 (e) Sanitation services; and

28 (f) Any services other than education and welfare.

29 (2) The establishment of service charges is not mandatory, but rather is at the
30 discretion of the municipality in which the exempt property is located. The
31 municipal legislative body shall determine those institutions and organizations on
32 which service charges are to be levied by charging for services on any or all of
33 the following classifications of tax exempt real property:

34 (a) Residential properties currently totally exempt from property taxation,
35 yet used to provide rental income. This classification shall does not include
36 student housing or, parsonages or property owned by a nonprofit organization
37 that provides residential rental housing to persons with physical or mental
38 disabilities. If a municipality levies service charges in any of the
39 classifications of this subparagraph, that municipality shall levy these service
40 charges to all institutions and organizations owning property in that
41 classification.

- 1 (3) With respect to the determination of service charges, appeals ~~shall~~ must be
2 made in accordance with an appeals process to be provided for by municipal
3 ordinance.
- 4 (4) The collection of unpaid service charges ~~shall~~ must be carried out in the same
5 manner as provided in Title 38, section 1208.
- 6 (5) Municipalities shall use the revenues accrued from service charges to fund,
7 as much as possible, the costs of those services.
- 8 (6) The total service charges levied by a municipality on any institution and
9 organization under this section ~~shall~~ may not exceed 2% of the gross annual
10 revenues of the organization. To qualify for this limitation the institution or
11 organization shall file with the municipality an audit of the revenues of the
12 organization for the year immediately prior to the year ~~which~~ that the service
13 charge is levied. The municipal officers shall abate the service charge amount
14 that is in excess of 2% of the gross annual revenues.
- 15 (7) Municipalities shall adopt any necessary ordinances to carry out the
16 provisions of this paragraph regarding service charges.

17 **SUMMARY**

18 This bill clarifies that property that is owned by a nonprofit organization that provides
19 residential rental housing to persons with physical or mental disabilities is exempt from
20 municipal property tax. This bill also exempts such property from the ability of
21 municipalities to levy charges on certain tax exempt property for the provision of services
22 such as fire and police protection and water and sewer service.