

# 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)



STATE LIBRARY  
ALBERTA

# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

---

Legislative Document

No. 1401

H.P. 980

House of Representatives, April 2, 2009

---

### An Act To Make Minor Substantive Changes to the Tax Laws

---

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WATSON of Bath.  
Cosponsored by Senator PERRY of Penobscot.

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

2 **Sec. 1. 27 MRSA §511, sub-§2**, as enacted by PL 2007, c. 539, Pt. WW, §1, is  
3 amended to read:

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

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

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

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

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

16 **Sec. 2. 30-A MRSA §4722, sub-§1, ¶BB**, as amended by PL 2007, c. 645, §2, is  
17 further amended to read:

18 BB. Make a loan, or contract with a financial institution to make a loan on behalf of  
19 the Maine State Housing Authority, to pay off an existing loan or to pay amounts past  
20 due on an existing loan on an owner-occupied single-family residence to assist a  
21 homeowner who is in default of the existing loan or in danger of losing the residence  
22 through foreclosure. Prior to receiving a loan under this paragraph, a homeowner  
23 must receive counseling with a 3rd-party, nonprofit organization approved by the  
24 United States Department of Housing and Urban Development, a housing financing  
25 agency of this State or the regulatory agency that has jurisdiction over the creditor;  
26 and

27 **Sec. 3. 30-A MRSA §4722, sub-§1, ¶CC**, as enacted by PL 2007, c. 645, §3, is  
28 amended to read:

29 CC. Encourage and provide incentives to individuals and entities that conserve  
30 energy; support and participate, with resources derived from sources except the  
31 conservation program fund under Title 35-A, section 3211-A, subsection 5, in  
32 markets that reward energy conservation and use the proceeds from this participation  
33 to support affordable housing programs under its jurisdiction; and create and  
34 administer programs that encourage individuals and entities to conserve energy; and

35 **Sec. 4. 30-A MRSA §4722, sub-§1, ¶DD** is enacted to read:

36 DD. Certify affordable housing projects for the purpose of the income tax credit  
37 increase under Title 36, section 5219-BB, subsection 3; administer and enforce the  
38 affordability requirements set forth in this paragraph; and perform other functions

1 described in this paragraph and necessary to the powers and duties described in this  
2 paragraph.

3 (1) For purposes of this paragraph, unless the context otherwise indicates, the  
4 following terms have the following meanings.

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

11 (b) "Affordable housing project" means a project in which:

12 (i) At least 50% of the aggregate square feet of the completed project is  
13 housing of which at least 50% of the aggregate square feet of the  
14 completed housing creates new affordable housing; or

15 (ii) At least 33% of the aggregate square feet of the completed project  
16 creates new affordable housing.

17 (2) An affordable housing project for which the owner of the property received  
18 the income tax credit increase under Title 36, section 5219-BB, subsection 3 must  
19 remain an affordable housing project for 30 years from the date the affordable  
20 housing project is placed in service. If the property does not remain an  
21 affordable housing project for 30 years from the date the affordable housing  
22 project is placed in service, the owner of the property shall pay to the Maine State  
23 Housing Authority for application to the Housing Opportunities for Maine Fund  
24 established under section 4853 an amount equal to the income tax credit increase  
25 allowed under Title 36, section 5219-BB, subsection 3, plus interest on that  
26 amount at the rate of 7% per annum from the date the property is placed in  
27 service until the date of payment of all amounts due. The affordability  
28 requirements and the repayment obligation in this subparagraph must be set forth  
29 in a restrictive covenant executed by the owner of the property and the affordable  
30 housing project for the benefit of and enforceable by the Maine State Housing  
31 Authority and recorded in the appropriate registry of deeds before the owner of  
32 the property claims the income tax credit increase under Title 36, section  
33 5219-BB, subsection 3.

34 (3) If the repayment obligation in subparagraph (2) is not fully satisfied after  
35 written notice is sent by certified mail or registered mail to the owner of the  
36 property at the owner's last known address, the Maine State Housing Authority  
37 may file a notice of lien in the registry of deeds of the county in which the real  
38 property subject to the lien is located. The notice of lien must specify the amount  
39 and interest due, the name and last known address of the owner, a description of  
40 the property subject to the lien and the Maine State Housing Authority's address  
41 and the name and address of its attorney, if any. The Maine State Housing  
42 Authority shall send a copy of the notice of lien filed in the registry by certified  
43 mail or registered mail to the owner of the property at the owner's last known  
44 address and to any person who has a security interest, mortgage, lien,

1 encumbrance or other interest in the property that is properly recorded in the  
2 registry of deeds in which the property is located. The lien arises and becomes  
3 perfected at the time the notice is filed in the appropriate registry of deeds in  
4 accordance with this subparagraph. The lien constitutes a lien on all property  
5 with respect to which the owner receives the income tax credit increase under  
6 Title 36, Section 5219-BB, subsection 3 and the proceeds of any disposition of  
7 the property that occurs after notice to the owner of the repayment obligation.  
8 The lien is prior to any mortgage and security interest, lien, restrictive covenant  
9 or other encumbrance recorded, filed or otherwise perfected after the notice of  
10 lien is filed in the appropriate registry of deeds. The lien may be enforced by a  
11 turnover or sale order in accordance with Title 14, section 3131 or any other  
12 manner in which a judgment lien may be enforced under the law. The lien must  
13 be in the amount of the income tax credit increase allowed under Title 36, section  
14 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum  
15 from the date the property is placed in service until the date of payment of all  
16 amounts due. Upon receipt of payment of all amounts due under the lien, the  
17 Maine State Housing Authority shall execute a discharge lien for filing in the  
18 registry or offices in which the notice of lien was filed.

19 (4) Annually by every August 1st until and including August 1, 2013, the Maine  
20 State Housing Authority shall review the report issued pursuant to Title 27,  
21 section 511, subsection 5, paragraph A to determine the percentage of the total  
22 aggregate square feet of completed projects that constitutes new affordable  
23 housing, rehabilitated and developed using:

24 (a) Either of the income tax credits under Title 36, section 5219-BB,  
25 subsection 2; and

26 (b) The income tax credit increase under Title 36, section 5219-BB,  
27 subsection 3.

28 If the total aggregate square feet of new affordable housing does not equal or  
29 exceed 30% of the total aggregate square feet of rehabilitated and developed  
30 completed projects eligible for a credit under Title 36, section 5219-BB, the  
31 Maine State Housing Authority and Maine Historic Preservation Commission  
32 shall notify the State Tax Assessor of this fact.

33 **Sec. 5. 36 MRSA §112, sub-§13** is enacted to read:

34 **13. Set-off agreements.** The assessor may enter into agreements with other taxing  
35 jurisdictions to provide for collection of tax debts by means of setoffs as provided in this  
36 subsection.

37 A. The assessor may enter into an agreement with the Federal Government pursuant  
38 to the Code, Section 6402(e) to set off against tax refunds payable by the Federal  
39 Government and pay to this State taxes owed to this State.

40 B. The assessor may enter into an agreement with another state or an agency of  
41 another state to set off against tax refunds payable by the other state and pay to this  
42 State taxes owed to this State.

1 C. In conjunction with an agreement authorized under paragraph B, the assessor may  
2 enter into an agreement that allows the other state to set off against tax refunds  
3 payable by this State taxes owed to the other state. The assessor may enter into an  
4 agreement authorized by this paragraph only if the other state allows this State to set  
5 off against tax refunds owed by the other state taxes owed to this State on  
6 substantially similar terms.

7 D. The assessor may enter into an agreement authorized by paragraph C only if the  
8 agreement provides that the other state may not set off against tax refunds payable by  
9 this State unless the other state has notified the taxpayer of the taxes due and has  
10 given the taxpayer an opportunity for review or appeal of the tax debt. The other  
11 state must certify to the assessor that it has notified the taxpayer of the taxes due and  
12 has given the taxpayer an opportunity for review or appeal of the tax debt before the  
13 setoff is exercised.

14 E. For purposes of this subsection, "tax" includes monetary restitution ordered to be  
15 paid to the bureau as part of a sentence imposed for a violation of this Title or Title  
16 17-A.

17 **Sec. 6. 36 MRSA §183-A** is enacted to read:

18 **§183-A. Subsequent offenses**

19 **1. Prior conviction; Class D crimes.** A person who commits a Class D crime under  
20 this Title who has a prior conviction for a Class B, Class C or Class D crime under this  
21 Title commits a Class C crime.

22 **2. Prior conviction; Class C crimes.** A person who commits a Class C crime under  
23 this Title who has a prior conviction for a Class B, Class C or Class D crime under this  
24 Title commits a Class B crime.

25 **3. Allegation of prior conviction when sentence enhanced.** Title 17-A, section  
26 9-A governs the use of prior convictions when determining a sentence under this section.

27 **Sec. 7. 36 MRSA §184, sub-§2,** as enacted by PL 2003, c. 452, Pt. U, §1 and  
28 affected by Pt. X, §2, is repealed.

29 **Sec. 8. 36 MRSA §184-A, sub-§1-A,** as enacted by PL 2003, c. 452, Pt. U, §2  
30 and affected by Pt. X, §2, is repealed.

31 **Sec. 9. 36 MRSA §184-A, sub-§2-A,** as enacted by PL 2003, c. 452, Pt. U, §2  
32 and affected by Pt. X, §2, is repealed.

33 **Sec. 10. 36 MRSA §185, sub-§4** is enacted to read:

34 **4. Restitution.** For purposes of this section, "liquidated tax liability" includes  
35 monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a  
36 violation of this Title or Title 17-A.

37 **Sec. 11. 36 MRSA §191, sub-§2, ¶K,** as repealed and replaced by PL 1987, c.  
38 769, Pt. A, §145, is amended to read:

1 K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard  
2 to the unorganized territory, of information contained on the a declaration of value  
3 form required by filed pursuant to section 4641-B 4641-D or the Internet publication  
4 by the State Tax Assessor of information, other than taxpayer identification numbers,  
5 obtained from declarations of value filed pursuant to section 4641-D;

6 **Sec. 12. 36 MRSA §191, sub-§2, ¶JJ**, as amended by PL 2007, c. 539, Pt. M, §3  
7 and Pt. OO, §6; c. 693, §8; and c. 694, §2, is further amended to read:

8 JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as  
9 necessary to enforce Title 5, section 1825-B, subsection 14; ~~and~~

10 **Sec. 13. 36 MRSA §191, sub-§2, ¶KK**, as enacted by PL 2007, c. 539, Pt. M,  
11 §4, is amended to read:

12 KK. The disclosure of information necessary to administer the setoff of liquidated  
13 tax debts pursuant to section 185, subsection 3-;

14 **Sec. 14. 36 MRSA §191, sub-§2, ¶KK**, as enacted by PL 2007, c. 539, Pt. OO,  
15 §7, is reallocated to 36 MRSA §191, sub-§2, ¶LL.

16 **Sec. 15. 36 MRSA §191, sub-§2, ¶KK**, as enacted by PL 2007, c. 693, §9, is  
17 reallocated to 36 MRSA §191, sub-§2, ¶MM.

18 **Sec. 16. 36 MRSA §191, sub-§2, ¶KK**, as enacted by PL 2007, c. 694, §3, is  
19 reallocated to 36 MRSA §191, sub-§2, ¶NN.

20 **Sec. 17. 36 MRSA §191, sub-§2, ¶OO** is enacted to read:

21 OO. The disclosure to duly authorized officers of the Federal Government and of  
22 other state governments of information necessary to administer a set-off agreement  
23 pursuant to section 112, subsection 13. The information may not be disclosed unless  
24 the officer's government permits a substantially similar disclosure of information to  
25 the taxing officials of this State and protects the confidentiality of the information in  
26 a manner substantially similar to that provided by this section.

27 **Sec. 18. 36 MRSA §2554, sub-§4** is enacted to read:

28 **4. Purchases for resale not resold.** When a service provider purchases a service  
29 subject to tax under this chapter from another service provider using a resale certificate  
30 approved by the assessor and claims that it will resell the service, and then subsequently  
31 uses the service itself rather than reselling it, the purchaser becomes liable for any unpaid  
32 tax on that service on the date of such use.

33 **Sec. 19. 36 MRSA §2557, sub-§3, ¶G-1** is enacted to read:

34 G-1. Incorporated nonprofit medical clinics whose sole mission is to provide free  
35 medical care to the indigent or uninsured;

36 **Sec. 20. 36 MRSA §4366-A, sub-§1**, as amended by PL 2007, c. 438, §§91 and  
37 92, is repealed.

1           **Sec. 21. 36 MRSA §4366-A, sub-§2**, as amended by PL 2007, c. 438, §93, is  
2 further amended to read:

3           **2. Provided to sellers.** The State Tax Assessor shall provide stamps to a licensed  
4 distributor upon submission by the licensed distributor of a cigarette tax return in a form  
5 prescribed by the assessor. The stamps must be of a design suitable to be affixed to  
6 packages of cigarettes as evidence of the payment of the tax imposed by this chapter.  
7 The assessor may permit a licensed distributor to pay for the stamps within 30 days after  
8 the date of purchase, if a bond satisfactory to the assessor in an amount not less than 50%  
9 of the sale price of the stamps has been filed with the assessor conditioned upon payment  
10 for the stamps. Such a distributor may continue to purchase stamps on a 30-day deferral  
11 basis only if it remains current with its cigarette tax obligations. The assessor may not sell  
12 additional stamps to a distributor that has failed to pay in full within 30 days for stamps  
13 previously purchased until such time as the overdue payment is received. The assessor  
14 shall sell cigarette stamps to licensed distributors at the following discounts from their  
15 face value:

16           D. For stamps at the face value of 100 mills, the discount rate is 1.15%.

17           **Sec. 22. 36 MRSA §4366-A, sub-§3**, as enacted by PL 1997, c. 458, §10, is  
18 amended to read:

19           **3. Affixed to cigarettes.** A distributor shall affix, ~~or cause to be affixed, in such~~  
20 ~~manner as the assessor may specify,~~ stamps of the proper denominations to individual  
21 packages of cigarettes sold or distributed by the distributor in this State. The distributor  
22 shall affix the stamps prior to the time in the manner specified by the assessor before the  
23 cigarettes are transferred out of the possession of the distributor. A distributor may not  
24 sell, offer for sale or display for sale in this State cigarettes that do not bear stamps  
25 evidencing the payment of the tax imposed by this chapter, except that a licensed  
26 distributor may sell unstamped cigarettes to another licensed distributor if the sales are  
27 documented in a form prescribed by the assessor. The face value of the stamps must be  
28 considered as part of the retail cost of the cigarettes.

29           **Sec. 23. 36 MRSA §4366-A, sub-§6**, as repealed and replaced by PL 2003, c.  
30 452, Pt. U, §13 and affected by Pt. X, §2, is amended to read:

31           **6. Penalties.** The following penalties apply to violations of this section.

32           A. A person who sells, offers for sale, displays for sale or possesses with intent to  
33 sell unstamped cigarettes in violation of this section commits a Class D crime.

34           ~~B. A person who violates paragraph A when the person has 2 or more prior~~  
35 ~~convictions for violation of this chapter commits a Class C crime.~~

36           C. A person who sells ~~or~~, transfers, reaffixes or reuses cigarette stamps ~~or uses~~  
37 stamps ~~more than once~~ in violation of this section commits a Class D crime.

38           ~~D. A person who violates paragraph C when the person has one or more prior~~  
39 ~~convictions for violation of this chapter commits a Class C crime.~~



1 Except as otherwise specifically provided, violation of this subsection is a strict liability  
2 crime as defined in Title 17-A, section 34, subsection 4-A.

3 ~~Title 17-A, section 9-A governs the use of prior convictions when determining a~~  
4 ~~sentence.~~

5 **Sec. 24. 36 MRSA §4641-C, sub-§7**, as amended by PL 2003, c. 344, Pt. D, §26,  
6 is further amended to read:

7 **7. Deeds pursuant to mergers or consolidations.** Deeds made pursuant to mergers  
8 or consolidations ~~carried out pursuant to Title 13-C, chapter 11 of business entities,~~ from  
9 which no gain or loss is recognized under the ~~Internal Revenue Code.~~ For purposes of this  
10 subsection, "business entity" means an association or legal entity organized to conduct  
11 business, including, without limitation, a domestic or foreign corporation, a limited  
12 partnership, a general partnership, a limited liability partnership, a limited liability  
13 company, a joint venture, a joint stock company or a business trust;

14 **Sec. 25. 36 MRSA §4715**, as enacted by PL 1987, c. 513, §10 and amended by PL  
15 1991, c. 376, §61, is repealed and the following enacted in its place:

16 **§4715. Dealer reports of purchases and payment of taxes**

17 Every dealer shall keep, as a part of its permanent records, a record of all mahogany  
18 quahogs purchased at point of first sale. These records must be open for inspection by  
19 the State Tax Assessor at all times. On or before the last day of each month, every dealer  
20 shall file a return with the assessor on a form furnished by the assessor stating the number  
21 of bushels of mahogany quahogs purchased by the dealer during the preceding calendar  
22 month. At the same time, the dealer shall pay to the assessor a tax of \$1.20 per bushel on  
23 all mahogany quahogs purchased by the dealer during the preceding calendar month. A  
24 dealer whose annual tax liability under this chapter does not exceed \$1,000 may file an  
25 annual return with payment on or before January 31st covering the prior calendar year. If  
26 the assessor determines that additional tax is due or that an overpayment of tax has been  
27 made, assessments or refunds must be made by the assessor to the dealer.

28 **Sec. 26. 36 MRSA §5219-BB**, as amended by PL 2007, c. 693, §32 and affected  
29 by §37, is further amended to read:

30 **§5219-BB. Credit for rehabilitation of historic properties after 2007**

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

33 A. "Affordable Certified affordable housing project" means a decent, safe and  
34 sanitary dwelling, apartment or other living accommodation for a household whose  
35 income does not exceed 60% of the median income for the area as defined by the  
36 United States Department of Housing and Urban Development under the United  
37 States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended  
38 certified historic structure that has been certified by the Maine State Housing  
39 Authority as an affordable housing project pursuant to Title 30-A, section 4722,  
40 subsection 1, paragraph DD.

1 B. "Certified historic structure" means a structure that has been certified by the  
2 Director of the Maine Historic Preservation Commission as a historic structure under  
3 Title 27, section 511.

4 C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation  
5 expenditure, as defined by the Code, Section 47(c)(2), made between January 1, 2008  
6 and December 31, 2013 certified by the director under Title 27, section 511 and used  
7 in the certified rehabilitation of a certified historic structure. For purposes of  
8 subsection 2, paragraph B, qualified rehabilitation expenditures incurred in the  
9 certified rehabilitation of a certified historic structure located in the State do not  
10 include a requirement that the certified historic structure be substantially  
11 rehabilitated.

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

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

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

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

25 A taxpayer is allowed a credit under paragraph A or B but not both. A credit may not be  
26 claimed for expenditures incurred before January 1, 2008 or after December 31, 2013.

27 **3. Increased credit for a certified affordable housing project.** The credit allowed  
28 under this section is increased to 30% of certified qualified rehabilitation expenditures if  
29 the project is also an for a certified affordable housing project. ~~The 30% credit is~~  
30 ~~available only for projects for which at least 50% of the aggregate square feet of the~~  
31 ~~completed project is housing of which at least 50% of the aggregate square feet of the~~  
32 ~~completed housing creates new affordable housing or for which at least 33% of the~~  
33 ~~aggregate square feet of the completed project creates new affordable housing.~~  
34 ~~Affordable housing created using the 30% credit must remain affordable for 30 years~~  
35 ~~pursuant to a mechanism acceptable to the Maine State Housing Authority. The~~  
36 ~~mechanism must provide that if the property does not remain affordable for 30 years, the~~  
37 ~~owner of the property must pay to the Housing Opportunities for Maine Fund under Title~~  
38 ~~30-A, section 4853 an amount equal to the credit increase allowed to the taxpayer under~~  
39 ~~this subsection plus interest at the rate of 7% per annum beginning when the property is~~  
40 ~~placed in service and ending upon payment. If the certified affordable housing project for~~  
41 ~~which an increased credit was allowed under this subsection does not remain an~~  
42 ~~affordable housing project for 30 years from the date the affordable housing project is~~  
43 ~~placed in service, the owner of the property is subject to the repayment provisions of Title~~  
44 ~~30-A, section 4722, subsection 1, paragraph DD. Upon notification by the Maine~~

1 Historic Preservation Commission and the Maine State Housing Authority pursuant to  
2 Title 30-A, section 4722, subsection 1, paragraph DD, subparagraph 4, the State Tax  
3 Assessor shall raise the credit increase amount allowed under this subsection by one  
4 percentage point for tax years beginning in the calendar year of that notification. The  
5 maximum total credit allowed under this subsection may not exceed 35% of the  
6 taxpayer's certified qualified rehabilitation expenditures.

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

19 **4. Maximum credit.** The credit allowed pursuant to this section may not exceed  
20 \$5,000,000 for each certified rehabilitation project of a certified historic structure under  
21 Section 47 of the Code placed into service in the State during the taxable year for which a  
22 credit is claimed under this section.

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

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

27 **7. Allocation of credit.** Credits allowed to a partnership, a limited liability company  
28 taxed as a partnership or multiple owners of property must be passed through to the  
29 partners, members or owners respectively pro rata in the same manner as under section  
30 5219-G, subsection 1 or pursuant to an executed agreement among the partners, members  
31 or owners documenting an alternate allocation method. Credits may be allocated to  
32 partners, members or owners that are exempt from taxation under Section 501 (c)(3),  
33 Section 501 (c)(4) or Section 501 (c)(6) of the Code, and those partners, members or  
34 owners must be treated as taxpayers for the purposes of this subsection.

35 **8. Recapture.** A credit received under this section subsection 2 is subject to the  
36 same recapture provisions as apply to a credit received under Section 47 of the Code.

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

1           **Sec. 27. 36 MRSA §5220, sub-§7** is enacted to read:

2           **7. Exceptions.** A resident individual who does not have a Maine income tax liability  
3 pursuant to this Part for the taxable year and who filed a federal income tax return for the  
4 taxable year for the sole purpose of claiming a credit under the Code, Section 32 is not  
5 required to file a Maine income tax return for that taxable year. The assessor, by rule,  
6 may identify other exceptions to the requirements of this section. Rules adopted pursuant  
7 to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter  
8 2-A.

9           **Sec. 28. 36 MRSA §5276, sub-§1**, as amended by PL 2005, c. 332, §25, is  
10 further amended to read:

11           **1. General rule.** The State Tax Assessor, within the applicable period of limitations,  
12 may credit an overpayment of income tax, including an overpayment reported on a joint  
13 return, and interest on the overpayment against any liability arising from a  
14 redetermination pursuant to section 6211 or any liability in respect of any tax imposed  
15 under this Title owed by the taxpayer, or by the taxpayer's spouse in the case of a joint  
16 return. The balance, after any setoff pursuant to section 5276-A or pursuant to an  
17 agreement entered into under section 112, subsection 13, must be refunded by the  
18 Treasurer of State. For purposes of this subsection, "any tax imposed under this Title"  
19 includes monetary restitution ordered to be paid to the bureau as part of a sentence  
20 imposed for a violation of this Title or Title 17-A.

21           **Sec. 29. 36 MRSA §5278, sub-§2**, as amended by PL 1999, c. 521, Pt. B, §10  
22 and affected by §11, is further amended to read:

23           **2. Limit on amount of claim or refund.** If the claim is filed by the taxpayer during  
24 the 3-year period prescribed in subsection 1, the amount of the credit or refund may not  
25 exceed the portion of the tax paid within the 3 years immediately preceding the filing of  
26 the claim ~~plus the period of any extension of time for filing the return.~~ If ~~no a~~ claim is  
27 not filed, any credit or refund allowed upon an audit of the taxpayer may not exceed the  
28 amount that would be allowable under this subsection, if a claim had been filed by the  
29 taxpayer on the date the credit or refund is allowed.

30           **Sec. 30. 36 MRSA §5332, sub-§2**, as enacted by PL 2003, c. 452, Pt. U, §17 and  
31 affected by Pt. X, §2, is repealed.

32           **Sec. 31. 36 MRSA §5333, sub-§2**, as enacted by PL 2003, c. 452, Pt. U, §18 and  
33 affected by Pt. X, §2, is repealed.

34           **Sec. 32. 36 MRSA §6665**, as enacted by PL 2005, c. 12, Pt. BBB, §5, is repealed.

35           **Sec. 33. 36 MRSA §6758, sub-§3**, as enacted by PL 1995, c. 669, §5, is amended  
36 to read:

37           **3. Deposit and payment of revenue.** On or before June 30th of each year, the  
38 ~~Commissioner of Administrative and Financial Services assessor~~ shall deposit an amount  
39 equal certify to the State Controller the total retained employment tax increment revenues

1 for the preceding calendar year for approved employment tax increment financing  
2 programs ~~in to be transferred to~~ the state employment tax increment contingent account  
3 established, maintained and administered by the ~~Commissioner of Administrative and~~  
4 ~~Financial Services~~ State Controller from General Fund undedicated revenue within the  
5 withholding tax category. On or before July 31st of each year, the ~~Commissioner of~~  
6 ~~Administrative and Financial Services~~ assessor shall pay to each approved qualified  
7 business an amount equal to the retained employment tax increment revenues of that  
8 qualified business for the preceding calendar year.

9 **Sec. 34. 36 MRSA §6902, sub-§2,** as amended by PL 2007, c. 693, §36, is  
10 further amended to read:

11 **2. Procedure for reimbursement.** Within 6 weeks following receipt of a tax  
12 reimbursement and credit certificate pursuant to Title 5, section 13090-L, subsection 4, a  
13 media production company shall report to the State Tax Assessor that portion of certified  
14 production wages paid during the project period, together with any additional information  
15 the assessor may reasonably require. The assessor shall certify to the ~~commissioner~~ the  
16 reimbursement amount to which a media production company is entitled State Controller  
17 the amounts to be transferred to the media production reimbursement account established,  
18 maintained and administered by the State Controller from General Fund undedicated  
19 revenue within the withholding tax category. The ~~commissioner~~ shall deposit the  
20 ~~amounts certified by the assessor in a media production reimbursement account~~  
21 ~~established, maintained and administered by the commissioner~~ and shall pay those  
22 amounts to each media production company within 90 days of the receipt by the assessor  
23 of the media production company's report.

24 **Sec. 35. Application.** That section of this Act that repeals and replaces Title 36,  
25 section 4715 applies to tax periods beginning on or after January 1, 2010.

26 **Sec. 36. Retroactivity.** That section of this Act that enacts the Maine Revised  
27 Statutes, Title 36, section 2557, subsection 3, paragraph N applies retroactively to  
28 October 1, 2007. That section of this Act that amends Title 36, section 4641-C,  
29 subsection 7 applies retroactively to July 1, 2003. Those sections of this Act that amend  
30 Title 27, section 511, subsection 2; Title 30-A, section 4722, subsection 1, paragraphs BB  
31 and CC; and Title 36, section 5219-BB; and that section that enacts Title 30-A, section  
32 4722, subsection 1, paragraph DD apply retroactively to June 30, 2008.

## 33 SUMMARY

34 This bill makes the following changes to the laws governing taxation.

35 It changes procedures for certification of eligibility for the income tax credit for  
36 rehabilitation of historic properties including moving language regarding the  
37 responsibility of the Maine State Housing Authority to the Maine Revised Statutes, Title  
38 30-A, chapter 201, which establishes and controls the Maine State Housing Authority.

39 It authorizes the State Tax Assessor to enter into agreements with other states or the  
40 Federal Government to set off tax refunds payable by each state or the Federal

1 Government against tax debts owed to the other state or the Federal Government, and  
2 clarifies that restitution payable to the Department of Administrative and Financial  
3 Services, Bureau of Revenue Services as part of a sentence imposed for a criminal or tax  
4 law violation is a tax debt for purposes of such a setoff or a setoff against a federal tax  
5 refund.

6 It establishes a consistent method for treating certain tax law violations as a prior  
7 conviction when determining a sentence for a subsequent tax law violation.

8 It clarifies that amounts payable by the State to a person may be assigned to the State  
9 Tax Assessor and applied to restitution payable to the Bureau of Revenue Services as part  
10 of a sentence imposed for a criminal or tax law violation.

11 It provides authority for the State Tax Assessor to disclose to duly authorized officers  
12 of the Federal Government and of other state governments information necessary to  
13 administer a set-off agreement with those governments. It also corrects a numbering  
14 problem created by Public Law 2007, chapters 539, 693 and 694, which enacted 4  
15 substantively different provisions with the same paragraph letter.

16 It enacts an exemption from the service provider tax for sales to an incorporated  
17 nonprofit medical clinic, for consistency with a change to the sales and use tax law  
18 enacted in the First Regular Session of the 123rd Legislature.

19 It designates the document filed by a distributor when obtaining cigarette stamps as a  
20 tax return, allows a licensed distributor to sell unstamped cigarettes to another licensed  
21 distributor with appropriate documentation and establishes a consistent rule for treating  
22 certain tax law violations as a prior conviction when determining a sentence for a  
23 subsequent tax law violation.

24 It clarifies the types of business entities that qualify for an exemption from real estate  
25 transfer tax on deeds made pursuant to a merger or consolidation.

26 It allows a dealer owing no more than \$1,000 per year for the tax on mahogany  
27 quahogs to file annual returns.

28 It clarifies the procedures for calculating and certifying the income tax credit for  
29 rehabilitation of historic properties.

30 It clarifies that income tax refunds may be set off and applied to restitution payable to  
31 the Bureau of Revenue Services as part of a sentence imposed for a tax law violation.

32 It repeals a requirement for annual reporting of the projected costs of benefits for the  
33 current biennium and ensuing 2 biennia under the business equipment tax reimbursement  
34 program.

35 It simplifies and clarifies the State's procedures for payment of employment tax  
36 increment financing reimbursements.

37 It simplifies and clarifies the State's procedures for payment of media production  
38 reimbursements.

1           It corrects a cross-reference and authorizes Internet publication by the State Tax  
2 Assessor of certain information obtained from real estate transfer tax declarations of  
3 value.

4           It adds a provision to the service provider tax ensuring that the tax is paid when a  
5 taxable service is purchased for resale but is then used by the purchaser rather than being  
6 resold.

7           It waives the requirement to file a Maine income tax return for individuals who filed  
8 a federal income tax return solely in order to claim a federal earned income credit. It  
9 authorizes the State Tax Assessor to identify by rule other exceptions to that requirement  
10 to file a Maine income tax return.

11           It provides that an extension of time to file a Maine income tax return does not extend  
12 the period for filing a claim for credit or refund of an overpayment of Maine income tax.