

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 260

H.P. 213

House of Representatives, February 1, 2011

An Act To Extend the Historic Preservation Tax Credit

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Clerk

Presented by Representative HERBIG of Belfast.
Cosponsored by Senator DIAMOND of Cumberland and
Representatives: BERRY of Bowdoinham, BRYANT of Windham, CAIN of Orono,
FLEMINGS of Bar Harbor, FREDETTE of Newport, GILLWAY of Searsport, KNIGHT of
Livermore Falls, ROCHELO of Biddeford.

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

2 **Sec. 1. 27 MRSA §511, sub-§5, ¶B**, as enacted by PL 2007, c. 539, Pt. WW, §1,
3 is amended to read:

4 B. By January 15, ~~2013~~ 2019, the Maine Historic Preservation Commission shall
5 analyze the use of tax credits provided under Title 36, section 5219-BB as an
6 incentive for rehabilitation of historic structures and economic development, analyze
7 tax and other revenues generated by the rehabilitation to determine in relation to the
8 cost of the credit if they exceed the costs of the credit and report the results of its
9 analysis to the joint standing committee of the Legislature having jurisdiction over
10 taxation matters with recommendations as to whether the credits under Title 36,
11 section 5219-BB should be extended, repealed or amended. The joint standing
12 committee may submit legislation related to the report.

13 **Sec. 2. 30-A MRSA §4722, sub-§1, ¶DD**, as enacted by PL 2009, c. 361, §4 and
14 affected by §37, is amended to read:

15 DD. Certify affordable housing projects for the purpose of the income tax credit
16 increase under Title 36, section 5219-BB, subsection 3; administer and enforce the
17 affordability requirements set forth in this paragraph; and perform other functions
18 described in this paragraph and necessary to the powers and duties described in this
19 paragraph.

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

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

28 (b) "Affordable housing project" means a project in which:
29 (i) At least 50% of the aggregate square feet of the completed project is
30 housing of which at least 50% of the aggregate square feet of the
31 completed housing creates new affordable housing; or
32 (ii) At least 33% of the aggregate square feet of the completed project
33 creates new affordable housing.

34 (2) An affordable housing project for which the owner of the property received
35 the income tax credit increase under Title 36, section 5219-BB, subsection 3 must
36 remain an affordable housing project for 30 years from the date the affordable
37 housing project is placed in service. If the property does not remain an
38 affordable housing project for 30 years from the date the affordable housing
39 project is placed in service, the owner of the property shall pay to the Maine State
40 Housing Authority for application to the Housing Opportunities for Maine Fund
41 established under section 4853 an amount equal to the income tax credit increase

1 allowed under Title 36, section 5219-BB, subsection 3, plus interest on that
2 amount at the rate of 7% per annum from the date the property is placed in
3 service until the date of payment of all amounts due. The affordability
4 requirements and the repayment obligation in this subparagraph must be set forth
5 in a restrictive covenant executed by the owner of the property and the affordable
6 housing project for the benefit of and enforceable by the Maine State Housing
7 Authority and recorded in the appropriate registry of deeds before the owner of
8 the property claims the income tax credit increase under Title 36, section
9 5219-BB, subsection 3.

10 (3) If the repayment obligation in subparagraph (2) is not fully satisfied after
11 written notice is sent by certified mail or registered mail to the owner of the
12 property at the owner's last known address, the Maine State Housing Authority
13 may file a notice of lien in the registry of deeds of the county in which the real
14 property subject to the lien is located. The notice of lien must specify the amount
15 and interest due, the name and last known address of the owner, a description of
16 the property subject to the lien and the Maine State Housing Authority's address
17 and the name and address of its attorney, if any. The Maine State Housing
18 Authority shall send a copy of the notice of lien filed in the registry by certified
19 mail or registered mail to the owner of the property at the owner's last known
20 address and to any person who has a security interest, mortgage, lien,
21 encumbrance or other interest in the property that is properly recorded in the
22 registry of deeds in which the property is located. The lien arises and becomes
23 perfected at the time the notice is filed in the appropriate registry of deeds in
24 accordance with this subparagraph. The lien constitutes a lien on all property
25 with respect to which the owner receives the income tax credit increase under
26 Title 36, Section 5219-BB, subsection 3 and the proceeds of any disposition of
27 the property that occurs after notice to the owner of the repayment obligation.
28 The lien is prior to any mortgage and security interest, lien, restrictive covenant
29 or other encumbrance recorded, filed or otherwise perfected after the notice of
30 lien is filed in the appropriate registry of deeds. The lien may be enforced by a
31 turnover or sale order in accordance with Title 14, section 3131 or any other
32 manner in which a judgment lien may be enforced under the law. The lien must
33 be in the amount of the income tax credit increase allowed under Title 36, section
34 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum
35 from the date the property is placed in service until the date of payment of all
36 amounts due. Upon receipt of payment of all amounts due under the lien, the
37 Maine State Housing Authority shall execute a discharge lien for filing in the
38 registry or offices in which the notice of lien was filed.

39 (4) Annually by every August 1st until and including August 1, ~~2013~~ 2019, the
40 Maine State Housing Authority shall review the report issued pursuant to Title
41 27, section 511, subsection 5, paragraph A to determine the percentage of the
42 total aggregate square feet of completed projects that constitutes new affordable
43 housing, rehabilitated and developed using:

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

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

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

8 **Sec. 3. 36 MRSA §5219-BB, sub-§1, ¶C**, as amended by PL 2009, c. 361, §28
9 and affected by §37, is further amended to read:

10 C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation
11 expenditure, as defined by the Code, Section 47(c)(2), made between January 1, 2008
12 and December 31, ~~2013~~ 2019. For purposes of subsection 2, paragraph B, qualified
13 rehabilitation expenditures incurred in the certified rehabilitation of a certified
14 historic structure located in the State do not include a requirement that the certified
15 historic structure be substantially rehabilitated.

16 **SUMMARY**

17 This bill extends the tax credit for rehabilitation of historic properties, currently
18 scheduled to expire December 31, 2013, for 6 more years, until December 31, 2019. The
19 bill also extends for the same length of time the reports that are required from the Maine
20 Historic Preservation Commission and the Maine State Housing Authority.