

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1121

H.P. 785

House of Representatives, March 21, 2017

An Act Regarding the Exclusive Use of Tax Exempt Property

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative KINNEY of Limington. (BY REQUEST)
Cosponsored by Senator CUSHING of Penobscot and
Representatives: ORDWAY of Standish, PARRY of Arundel, STETKIS of Canaan,
TIMBERLAKE of Turner.

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 2007, c. 627, §20, 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 may not receive directly or indirectly any pecuniary profit from the
9 operation of that organization, except as reasonable compensation for services in
10 effecting its purposes or as a proper beneficiary of its strictly benevolent or
11 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 must be devoted exclusively to the
14 purposes for which it is organized;

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

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

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

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

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

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

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or mental retardation;

(ii) Property used for student housing;

(iii) Property used for parsonages;

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

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

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

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

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to

1 people of low income or the construction, rehabilitation, ownership or
2 operation of housing.

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

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

13 (8) The property of the institution, organization or corporation may not be
14 incidentally used to provide goods, services or materials in exchange for any
15 amount, type or form of remuneration. For the purpose of this subsection, an
16 incidental use is a use of the property that is not directly related and necessary to
17 the purposes of the benevolent and charitable or literary and scientific institution,
18 organization or corporation.

19 **SUMMARY**

20 This bill amends the exemption from property tax provided to benevolent and
21 charitable incorporated institutions and to scientific and literary institutions to specify that
22 the exemption does not apply to property that is used incidentally in the provision of
23 goods, services or materials in exchange for any type of consideration.