

# MAINE STATE LEGISLATURE

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**TAXATION**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1180, L.D. 1645, Bill, "An Act To Create Affordable Workforce and Senior Housing and Preserve Affordable Rural Housing"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 30-A MRS §4722, sub-§1, ¶GG is enacted to read:

GG. In accordance with the credit for affordable housing established in Title 36, section 5219-VV and in accordance with rules adopted under the Maine Administrative Procedure Act:

- (1) Allocate the credit;
- (2) Administer and enforce the requirements of the credit; and
- (3) Perform other functions and duties necessary for the proper administration of the credit, including providing any necessary certifications and notices to taxpayers and to the Department of Administrative and Financial Services, Bureau of Revenue Services containing information required by the State Tax Assessor necessary for determining eligibility and the amount of the credit for each taxable year.

Rules adopted under this paragraph are routine technical rules.'

Amend the bill in section 3 in paragraph HHH in the last line (page 1, line 26 in L.D.) by inserting after the following: "5219-VV" the following: 'and for purposes of the report required by section 5219-VV, subsection 9'

Amend the bill in section 5 in §5219-VV by striking out all of subsections 2 to 4 (page 2, lines 30 to 41 and page 3, lines 1 to 39 in L.D.) and inserting the following:

'2. Credit allowed. A taxpayer receiving a credit certificate from the authority for the taxable year pursuant to Title 30-A, section 4722, subsection 1, paragraph GG is allowed a credit against the tax imposed under this Part:

**COMMITTEE AMENDMENT**

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A. Equal to the total federal low-income housing tax credit computed using the entire federal credit period as described in Section 42(f) of the Code for all buildings in a qualified Maine project; or

B. Equal to 50% of the qualified basis of an affordable housing project that incurs not less than \$100,000 includible in eligible basis as defined in Section 42(d) of the Code in the construction or rehabilitation of an affordable housing project for which a credit is not claimed under Section 42 of the Code with regard to those expenditures, except that not more than \$500,000 in credit may be allocated to taxpayers for a single project under this paragraph.

A credit may be allowed for an affordable housing project under paragraph A or B but not both.

**3. Maximum credit; carry-forward.** The total credit amount available pursuant to this section and section 2534 to be allocated by the authority for each calendar year beginning on or after January 1, 2021 and ending on or before December 31, 2024 is subject to the following limitations.

A. The total allocation may not exceed \$20,000,000. Any portion of that amount not allocated in a calendar year may be carried forward and available to be allocated in subsequent calendar years, except that:

- (1) Any previously allocated credits returned to the authority, excluding any credits recaptured under subsection 7, must be added to that amount; and
- (2) The authority may not allocate more than \$25,000,000 in any calendar year.

B. No more than 20% of credits allocated in any calendar year may be allocated under subsection 2, paragraph B.

C. Ten percent of credits first available to be allocated in any calendar year must be set aside to be allocated for the purpose of qualified rural development preservation projects pursuant to subsection 2, paragraph B. Any portion of the amount under this paragraph not allocated in a calendar year must be carried forward and be available to be allocated in subsequent calendar years for the purpose of qualified rural development preservation projects. To the extent that any amounts set aside under this paragraph are not allocated on or before December 31, 2024, those amounts may be allocated by the authority without regard to whether the project is a qualified rural development preservation project.

D. Only those credits that have been carried forward or returned, excluding any credits recaptured under subsection 7, as described in this subsection may be allocated by the authority after December 31, 2024.

**4. Timing of allocation by authority and credit.** The authority may not make an allocation of credit to a taxpayer for a project before the date that any portion of the project is placed in service for federal tax purposes. Upon making an allocation of a credit to a taxpayer, the authority shall certify the allocation to the taxpayer and to the bureau. The certification must provide information required by the assessor for determining eligibility and the amount of the credit for each taxable year.

# COMMITTEE AMENDMENT

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A. The entire credit allowed for a project pursuant to this section must be taken in the later of:

(1) The first taxable year in which the federal low-income housing tax credit for that project is claimed for projects allocated a credit pursuant to subsection 2, paragraph A; and

(2) The first taxable year for which the project has an allocation of credit from the authority.

B. Notwithstanding paragraph A, the authority may allocate a credit to a taxpayer for a project for the immediately preceding calendar year if:

(1) The project was placed in service for federal tax purposes in the immediately preceding calendar year; and

(2) The allocation is made no later than the 60th day of the calendar year following the year in which the project was placed in service.'

Amend the bill in section 5 in §5219-VV by striking out all of subsection 6 (page 4, lines 1 to 11 in L.D.) and inserting the following:

'6. Allocation of credit among taxpayers. Credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of a credit-qualified affordable housing project must be passed through to the partners, members or owners respectively pro rata in the same manner as under section 5219-G, subsection 1 or pursuant to an executed written agreement among the partners, members or owners documenting an alternate allocation method. Credits may be allocated to partners, members or owners that are exempt from taxation under the Code, Section 501(c)(3), Section 501(c)(4) or Section 501(c)(6), and those partners, members or owners must be treated as taxpayers for the purposes of this section. Credits allowed under subsection 2, paragraph B may be claimed by an entity that is exempt from taxation under the Code, Section 501(c)(3), Section 501(c)(4) or Section 501(c)(6) and is the owner of the affordable housing. The tax-exempt entity must be treated as a taxpayer for purposes of this section.'

Amend the bill in section 5 in §5219-VV in subsection 7 in the 3rd line (page 4, line 14 in L.D.) by inserting after the following: "section," the following: 'The authority shall administer this subsection.'

Amend the bill in section 5 in §5219-VV in subsection 8 in paragraph B in the last 2 lines (page 5, lines 29 and 30 in L.D.) by striking out the following: "Section 520 of the federal Housing Act of 1949, as amended" and inserting the following: 'the authority in rules adopted under Title 30-A, section 4722, subsection 1, paragraph GG'

Amend the bill in section 5 in §5219-VV by striking out all of subsection 9 (page 5, lines 33 to 35 in L.D.)

Amend the bill in section 5 in §5219-VV in subsection 11 in the last paragraph in the 3rd to 7th lines (page 6, lines 25 to 29 in L.D.) by striking out the following: "by February 1, 2024. Following receipt of the report, the joint standing committee shall determine whether the credit provided under this section is meeting its public policy objectives and whether it should be continued. The joint standing committee may submit

# COMMITTEE AMENDMENT

H. 1180

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a bill to the Second Regular Session of the 131st Legislature to accomplish its recommendations"

Amend the bill in section 5 in §5219-VV by renumbering the subsections to read consecutively.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment makes several changes to the procedure for administration of the credit for affordable housing to appropriately reflect the most effective responsibilities of the Maine State Housing Authority and the Department of Administrative and Financial Services, Maine Revenue Services and requires the authority to adopt routine technical rules necessary for administration of the credit. The amendment also removes the date for a report by the Office of Program Evaluation and Government Accountability.

**FISCAL NOTE REQUIRED**

(See attached)



# 129th MAINE LEGISLATURE

LD 1645

LR 1760(02)

## An Act To Create Affordable Workforce and Senior Housing and Preserve Affordable Rural Housing

Fiscal Note for Bill as Amended by Committee Amendment "A(H-481)"  
Committee: Taxation  
Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$0	\$17,350,638	\$19,000,000
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$0	\$60,638	\$0
<b>Revenue</b>				
General Fund	\$0	\$0	(\$17,290,000)	(\$19,000,000)
Other Special Revenue Funds	\$0	\$0	(\$910,000)	(\$1,000,000)

#### Fiscal Detail and Notes

The bill creates a state affordable housing tax credit and would result in a reduction in General Fund revenue of \$17,290,000 in fiscal year 2021-22 and a reduction in Local Government Fund revenue of \$910,000 in fiscal year 2021-22. The Department of Administrative and Financial Services will require a General Fund appropriation of \$60,638 in fiscal year 2021-22 for programming costs.

Additional costs to the Maine State Housing Authority to implement the requirements of this legislation can be absorbed within existing budgeted resources.