

# MAINE STATE LEGISLATURE

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L.D. 1656

Date: 6-8-21

(Filing No. H-479)

MAJORITY  
LABOR AND HOUSING

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1227, L.D. 1656, "An Act To Promote Energy-efficient Affordable Housing"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 30-A MRSA c. 201, sub-c. 6-A is enacted to read:

SUBCHAPTER 6-A

GREEN HOUSING CONSTRUCTION PROGRAM

§4841. Green Housing Construction Program

The Green Housing Construction Program, referred to in this subchapter as "the program," is established within the Maine State Housing Authority, referred to in this subchapter as "the authority," to provide funding for the construction of energy-efficient affordable housing.

1. Authority to use project labor agreement. As a condition of awarding any funds to a developer, the Maine State Housing Authority shall require that developer to enter into a pre-hire, collectively bargained project labor agreement with the workers who will build the affordable housing. A project labor agreement must apply to all workers who build the affordable housing, including those employed by a contractor and all subcontractors. A project labor agreement must protect the collective bargaining rights of the workers involved in building the affordable housing.

2. Types of housing. All of the affordable housing built using funds awarded through the program must be multifamily residence buildings containing apartments, as opposed to single-family houses. The housing may consist of subsidized apartments and market-rate apartments.

**COMMITTEE AMENDMENT**

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3 **3. Conditions on types of housing.** Market-rate apartments built using funds awarded  
4 through the program may be owned, leased and sold on the open market. Residents of  
5 subsidized apartments built using funds awarded through the program may not pay more  
6 of their income on rent and utilities combined than is allowed under the federal housing  
7 choice voucher program administered by the United States Department of Housing and  
8 Urban Development.

9 **4. Reservation of subsidized apartment units; tenancy income and termination.**  
10 Subsidized apartment units built using funds awarded through the program must be  
11 reserved for households at or below 70% of the area median income as calculated and  
12 published by the United States Department of Housing and Urban Development at the time  
13 of application. Developers may set more restrictive income limits for subsidized units.  
14 Once tenancy is established, a household's increased income may not be used as a reason  
15 for terminating the tenancy.

16 **5. Housing standards requirements.** Housing built through the project must be  
17 designed to meet or exceed the requirements for certification in at least one of the following  
18 building certification systems:

19 A. Passive house, a set of design principles used to attain a quantifiable and rigorous  
20 level of energy efficiency within a specific quantifiable comfort level, as determined  
21 by a national passive house institute or an international passive house association;

22 B. A 3rd-party green building certification program, a globally recognized standard  
23 for the design, construction and operation of high-performance green buildings and  
24 neighborhoods, as established by a national green building council; or

25 C. Living building, with site, water, energy, health and happiness, materials equity and  
26 beauty standards as established by an international institute.

27 **6. Renewable energy requirement.** Housing built using funds awarded through the  
28 program must provide renewable energy production for onsite use of annual energy  
29 production of no less than that of a standard photovoltaic array of an area totaling 80% of  
30 the project buildings' roof area.

31 **7. Housing ownership and control.** To ensure that subsidized housing remains  
32 affordable until the end of its useful life, housing built using funds awarded through the  
33 program must:

34 A. Be owned and controlled by State Government or a county or municipal  
35 government;

36 B. Be owned and controlled by a housing authority or a charitable organization under  
37 Section 501(c)(3) of the United States Internal Revenue Code of 1986; or

38 C. Be owned and controlled by a corporation whose primary purpose is the  
39 development, operation or preservation of permanently affordable housing on a  
40 nonprofit basis for low-income and moderate-income households, such as a land trust,  
41 housing trust or limited-equity housing cooperative.

42 **8. Housing ownership by for-profit corporation; right of first refusal.**  
43 Notwithstanding subsection 7, for the purpose of leveraging additional private capital and  
tax credit investment, affordable housing built using funds awarded through the program  
may be owned wholly or in part by a for-profit corporation, as long as an ownership entity

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1 described in subsection 7 has a right of first refusal to purchase the housing from the for-  
2 profit corporation and the entity described in subsection 7 is either:

3 A. A full owner or joint owner of the for-profit corporation with decision-making  
4 authority for the project; or

5 B. A leaseholder of the project with decision-making authority for the project.

6 **9. Establishment of community board of stakeholders.** Prior to awarding funds to  
7 any developer for any housing project pursuant to the program, the authority shall form a  
8 community advisory board of stakeholders, including but not limited to low-income  
9 residents and nonprofit partners, to advise the authority on implementation of the program  
10 and report on the status of the program's effect on the community. The board shall survey  
11 residents about their experience in housing built through the program and evaluate the  
12 effectiveness of financing mechanisms and climate and workforce goals in the construction  
13 process. The costs associated with the board must be covered by program appropriations.

14 **10. Rights of tenants.** Residents of housing built using funds awarded through the  
15 program have the right to form tenant associations to organize, to meet collectively and to  
16 negotiate with management on priorities for repairs, upgrades and quality of life  
17 improvements to the buildings.

18 **11. Criteria for determining where to build housing.** When determining where to  
19 build new housing through the program, the authority shall prioritize proposals that are:

20 A. Geographically located in or proximate to communities in which there are chronic  
21 and severe shortages of affordable housing;

22 B. Geographically proximate to public transportation hubs and routes;

23 C. Cost-effective;

24 D. Designed to provide a comfortable standard of living for residents in well-designed,  
25 pleasant housing;

26 E. Supported by a well-developed and detailed plan submitted by the developer;

27 F. Submitted by a developer who employs a highly diverse workforce to design and  
28 build the housing and prioritizes diversity of the workforce when awarding contracts  
29 to subcontractors, including with regard to race, gender, religion and immigration  
30 status;

31 G. Designed to be available and affordable to households at or below 30% of area  
32 median income calculated and published by the United States Department of Housing  
33 and Urban Development; and

34 H. Designed to include housing vouchers.

35 **12. Hiring policies.** When hiring workers, hiring contractors, awarding contracts,  
36 negotiating project labor agreements, adopting rules and enforcing rules, the authority shall  
37 maximize, to the greatest extent feasible, lawful and appropriate, racial and gender equity  
38 within the hiring processes for all workers involved in building housing through the  
39 program.

40 **13. Authority may prohibit entities from bidding or being awarded contracts.**  
41 Contractors, subcontractors, firms, corporations, partnerships and all other entities working  
42 on housing built using funds awarded through the program shall, at all times, make good

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faith efforts to promote workforce diversity, including with regard to race and gender. If the authority determines that a contractor, subcontractor, firm, corporation, partnership or other entity is not making good faith efforts to achieve workforce diversity, the authority may prohibit that entity from bidding on contracts or being awarded contracts for the program for 2 years.

14. Rules. The authority may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§4842. Green Housing Construction Program Fund**

1. Fund established. The Green Housing Construction Program Fund, referred to in this section as "the fund," is established within the authority. The authority may apply money in the fund for the purposes authorized by this subchapter. The authority may accept federal funds to carry out the purposes of this section.

2. Fund is nonlapsing. Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year in the fund may not lapse but must be carried forward to be used for the same purposes. Federal funding must be used by the dates specified in federal guidance.

3. Limit of fund use for program costs. No more than 10% of the program funds may be used for program administrative costs.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**HOUSING AUTHORITY, MAINE STATE**

**Green Housing Construction Program Fund N381**

Initiative: Provides one-time funds in fiscal year 2021-22 and fiscal year 2022-23 only for energy-efficient affordable housing. Funds appropriated for this purpose do not lapse but must be carried forward into subsequent fiscal years to be used for the same purpose.

<b>GENERAL FUND</b>		<b>2021-22</b>	<b>2022-23</b>
All Other		\$25,000,000	\$75,000,000
<b>GENERAL FUND TOTAL</b>		<u>\$25,000,000</u>	<u>\$75,000,000</u>

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

**SUMMARY**

This amendment is the majority report of the committee. The amendment changes the green housing construction project to a green housing construction program and allocates it to the statutes.

The amendment also does the following.

1. It removes a requirement that between 55% and 65% of apartments built under the program must be set-rate apartments.

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2. It changes the bill to reflect that tenants of subsidized apartments may not pay more than a required percentage of income on rent and utilities combined as determined by federal standards.

3. It specifies that subsidized units must be reserved for households at or below 70% of area median income as calculated and published by the United States Department of Housing and Urban Development at the time of application. Developers may set more restrictive income limits for subsidized units. Once tenancy is established, the increase in a household's income cannot be used as a reason for terminating tenancy.

4. It specifies that housing built through the program must provide renewable energy production for onsite use of annual energy production of no less than that of a standard photovoltaic array of an area totaling 80% of the project buildings' roof area.

5. It specifies that housing built through the program may be owned and controlled by a corporation whose primary purpose is the development, operation or preservation of permanently affordable housing on a nonprofit basis for low-income and moderate-income households, such as a land trust, housing trust or limited-equity housing cooperative.

6. It specifies that housing built using funds awarded through the program may be owned wholly or in part by a for-profit corporation under certain conditions.

7. It removes a provision allowing the Attorney General to act against the authority if it does not comply with the provisions of this bill.

8. It establishes the Green Housing Construction Program Fund.

9. It adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
(See attached)



# 130th MAINE LEGISLATURE

LD 1656

LR 1448(02)

## An Act To Promote Energy-efficient Affordable Housing

Fiscal Note for Bill as Amended by Committee Amendment *A(H-479)*

Committee: Labor and Housing

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$25,000,000	\$75,000,000	\$0	\$0
<b>Appropriations/Allocations</b>				
General Fund	\$25,000,000	\$75,000,000	\$0	\$0

#### Fiscal Detail and Notes

This bill includes one-time, nonlapsing General Fund appropriations of \$25,000,000 in fiscal year 2021-22 and \$75,000,000 in fiscal year 2022-23 to a newly established Green Housing Construction Program Fund account within the Maine State Housing Authority to provide funding for the construction of energy-efficient affordable housing under the Green Housing Construction Program. This bill authorizes up to 10% of the program funds, or a maximum of \$2,500,000 in fiscal year 2021-22 and \$7,500,000 in fiscal year 2022-23 to be used for the program's administrative costs.