

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1704

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H.P. 1267

House of Representatives, May 13, 2021

**An Act To Change the Exclusion Amount under the Estate Tax and  
Provide Additional Funding for the Housing Opportunities for  
Maine Fund**

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Received by the Clerk of the House on May 11, 2021. Referred to the Committee on  
Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT  
Clerk

Presented by Representative TALBOT ROSS of Portland.  
Cosponsored by Senator CHIPMAN of Cumberland and  
Representatives: COLLINGS of Portland, TERRY of Gorham.

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

2 **Sec. 1. 36 MRSA §4102, sub-§5**, as amended by PL 2017, c. 474, Pt. G, §1, is  
3 repealed and the following enacted in its place:

4 **5. Maine exclusion amount.** "Maine exclusion amount" means:

5 A. For estates of decedents dying on or after January 1, 2013 but before January 1,  
6 2016, \$2,000,000;

7 B. For estates of decedents dying on or after January 1, 2016 but before January 1,  
8 2018, the basic exclusion amount determined for the calendar year in accordance with  
9 the Code, Section 2010(c)(3);

10 C. For estates of decedents dying on or after January 1, 2018 but before January 1,  
11 2022, \$5,600,000; and

12 D. For estates of decedents dying on or after January 1, 2022, \$1,000,000.

13 **Sec. 2. 36 MRSA §4119**, as amended by PL 2019, c. 607, Pt. D, §5, is further  
14 amended to read:

15 **§4119. Annual adjustments for inflation**

16 ~~Beginning in In 2018 and each year thereafter, 2019 and 2020,~~ on or about September  
17 15th, for the estates of decedents who die during the succeeding calendar year, the assessor  
18 shall multiply the cost-of-living adjustment by the dollar amount contained in section 4102,  
19 subsection 5 applicable to estates of decedents dying on or after January 1, 2018 ~~but before~~  
20 January 1, 2022. For the purposes of this section, the "cost-of-living adjustment" is the  
21 Chained Consumer Price Index for the 12-month period ending June 30th of the preceding  
22 calendar year divided by the Chained Consumer Price Index for the 12-month period  
23 ending June 30, 2017. If the dollar amount, adjusted by the application of the cost-of-living  
24 adjustment, is not a multiple of \$10,000, any increase must be rounded to the nearest  
25 multiple of \$10,000.

26 **Sec. 3. 36 MRSA §4120** is enacted to read:

27 **§4120. Additional exclusion amount for family farms, aquaculture, fishing and wood**  
28 **harvesting businesses**

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

31 A. "Commercial agricultural production" means commercial production of crops,  
32 maple syrup, honey, plants, trees, compost and livestock.

33 B. "Commercial aquacultural production" means the commercial production of  
34 cultured fish, shellfish or seaweed or other marine plants for human and animal  
35 consumption, including:

36 (1) All cultivating activities occurring at hatcheries or nurseries, from the egg,  
37 larval or spore stages to the transfer of the product to a growing site; and

38 (2) All cultivating activities occurring on water, from the receipt of fish, shellfish  
39 or seaweed or other marine plants from onshore facilities to the delivery of  
40 harvested products to onshore facilities for processing.

1 C. "Commercial fishing" means attempting to catch fish or any other marine animals  
2 or organisms with the intent of disposing of them for profit or trade in commercial  
3 channels and does not include subsistence fishing for personal use, sport fishing or  
4 charter boat fishing when the vessel is used for carrying sport anglers to available  
5 fishing grounds.

6 D. "Commercial wood harvesting" means the commercial severance and yarding of  
7 trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood,  
8 poles, pilings, biomass or fuel wood or other products commonly known as forest  
9 products.

10 E. "Depreciable machinery and equipment" means, except as otherwise provided by  
11 this paragraph, that part of the following machinery and equipment for which  
12 depreciation is allowable under the Code and repair parts for that machinery and  
13 equipment:

14 (1) New or used machinery and equipment for use directly and primarily in  
15 commercial agricultural production, including self-propelled vehicles; attachments  
16 and equipment for the production of field and orchard crops; new or used  
17 machinery and equipment for use directly and primarily in production of milk,  
18 maple syrup or honey, animal husbandry and production of livestock, including  
19 poultry; new or used machinery and equipment used in the removal and storage of  
20 manure; and new or used machinery and equipment not used directly and primarily  
21 in commercial agricultural production, but used to transport potatoes from a truck  
22 into a storage location;

23 (2) New or used watercraft, nets, traps, cables, tackle and related equipment  
24 necessary to and used directly and primarily in commercial fishing;

25 (3) New or used watercraft, machinery or equipment used directly and primarily  
26 for commercial aquacultural production, including, but not limited to: nets; ropes;  
27 cables; anchors and anchor weights; shackles and other hardware; buoys; fish  
28 tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating  
29 systems; boilers and related pumping systems; diving equipment; feeders and  
30 related equipment; power-generating equipment; tank water-level sensors;  
31 aboveground piping; water-oxygenating systems; fish-grading equipment; safety  
32 equipment; and sea cage systems, including walkways and frames, lights, netting,  
33 buoys, shackles, ropes, cables, anchors and anchor weights; and

34 (4) New or used machinery and equipment for use directly and primarily in  
35 commercial wood harvesting, including, but not limited to, chainsaws, skidders,  
36 delimbers, forwarders, slashers, feller bunchers and wood chippers.

37 "Depreciable machinery and equipment" does not include a motor vehicle as defined  
38 in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

39 F. "Family member" means, whether by blood or legal adoption, the decedent's:  
40 brother or sister or the spouse of a brother or sister; parent or grandparent or the spouse  
41 of a parent or grandparent; ancestor; or lineal descendant.

42 G. "Farmland" means land that is or could be classified as farmland under chapter 105,  
43 subchapter 10 and includes personal property that is exempt from property tax under  
44 section 655, subsection 1, paragraph C, D, M or O.

1           **2. Additional exclusion amount.** Notwithstanding any provision of law to the  
2 contrary, an additional exclusion amount of up to \$3,800,000 is allowed for farmland or  
3 depreciable machinery and equipment that is part of an estate of a decedent dying on or  
4 after January 1, 2022 that is transferred to a family member of the decedent.

5           **3. Requirements for additional exclusion; report.** In order to qualify for the  
6 additional exclusion from the estate tax pursuant to this section:

7           A. The farmland or depreciable machinery and equipment must be transferred to a  
8 family member;

9           B. For at least 5 years following the transfer, the farmland or depreciable machinery  
10 and equipment must remain the property of the family member to whom the farmland  
11 or depreciable machinery and equipment was transferred or, in the event of the death  
12 of that transferee, a family member of that transferee; and

13           C. During the 5 years following the transfer:

14                   (1) The land transferred must continue to meet the requirements for classification  
15 as farmland under chapter 105, subchapter 10, except that the gross income  
16 requirements of section 1102, subsection 4 must be met for every year of the 5  
17 years following transfer; and

18                   (2) The depreciable machinery and equipment transferred must continue to be used  
19 for commercial agricultural production, commercial aquacultural production,  
20 commercial fishing or commercial wood harvesting for every year of the 5 years  
21 following transfer.

22           A family member to whom farmland or depreciable machinery and equipment is  
23 transferred who wishes to claim the additional exclusion under this section shall file a report  
24 annually for the 5 years following the transfer with the assessor certifying that the farmland  
25 or depreciable machinery and equipment continues to qualify for the additional exclusion.

26           **4. Failure to maintain requirements for additional exclusion.** If at any time during  
27 the 5 years following the decedent's death the farmland or depreciable machinery and  
28 equipment transferred does not meet the requirements of subsection 3, the owner of the  
29 farmland or depreciable machinery and equipment is subject to the applicable tax specified  
30 in this chapter based on the fair market value of the farmland or depreciable machinery and  
31 equipment as of the date of the decedent's death.

32           **5. Rules.** The assessor shall adopt routine technical rules pursuant to Title 5, chapter  
33 375, subchapter 2-A to implement this section, including determining the method of  
34 providing certification of qualification for the additional exclusion provided by this section.

35           **Sec. 4. 36 MRSA §4121** is enacted to read:

36           **§4121. Distribution of revenue**

37           On a monthly basis, the Treasurer of State shall credit 50% of the revenues generated  
38 by the reduction in the exclusion amount as described in section 4102, subsection 5,  
39 paragraph D and section 4120 beginning January 1, 2022 to the Maine State Housing  
40 Authority. The Maine State Housing Authority shall deposit the funds received pursuant  
41 to this section in the Housing Opportunities for Maine Fund created in Title 30-A, section  
42 4853.

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**Sec. 5. Racial equity assessment tool.** The Maine State Housing Authority in consultation with the Permanent Commission on the Status of Racial, Indigenous and Maine Tribal Populations, as described in the Maine Revised Statutes, Title 5, section 25001, shall develop a racial equity assessment tool to use when evaluating funding for a project under the authority. The authority shall report to the Joint Standing Committee on Labor and Housing on the development of this racial equity assessment tool no later than October 1, 2022.

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**SUMMARY**

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This bill reduces the exclusion amount, below which the Maine estate tax does not apply, to \$1,000,000 from \$5,600,000 for estates of decedents dying on or after January 1, 2022 and removes the annual adjustment for inflation of that exclusion amount. The bill creates an additional exclusion amount from the estate tax for family farms and aquaculture, fishing and wood harvesting businesses of up to \$3,800,000. This additional exclusion applies to farmland or depreciable machinery and equipment used in agriculture, aquaculture, fishing or wood harvesting that is inherited by a family member and remains in commercial use for 5 years following transfer. The Treasurer of State must credit 50% of the revenue generated by the reduction in the exclusion amount beginning January 1, 2022 to the General Fund and 50% the Maine State Housing Authority. The Maine State Housing Authority must deposit the funds credited to it in the Housing Opportunities for Maine Fund. The bill directs the Maine State Housing Authority in consultation with the Permanent Commission on the Status of Racial, Indigenous and Maine Tribal Populations to develop a racial equity assessment tool to use when evaluating project funding and report to the Joint Standing Committee on Labor and Housing on the development of this tool no later than October 1, 2022.