

MAINE STATE LEGISLATURE

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LD 724

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Date 6/5/23

(Filing No S-178)

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HOUSING

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Reproduced and distributed under the direction of the Secretary of the Senate

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STATE OF MAINE

6

SENATE

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131ST LEGISLATURE

8

FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT “ A ” to S P 282, LD 724, “An Act to Expand Workforce Housing in Rural Maine by Funding the Maine State Housing Authority's Rural Affordable Rental Housing Program”

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Amend the bill by striking out the title and substituting the following

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'An Act to Increase Opportunities for the Development or Preservation of Low-income Housing'

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

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'Sec. 1. 30-A MRSA §4349-A, sub-§1, ¶C, as amended by PL 2017, c 407, Pt A, §120, is further amended by amending subparagraph (6) to read

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(6) A housing project serving the following individuals with mental illness, developmental disabilities, physical disabilities, brain injuries, substance use disorder or a human immunodeficiency virus, homeless individuals, victims of domestic violence, foster children, ~~or~~ children or adults in the custody of the State, or individuals with a household income of no more than 80% of the area median income if the project has 18 or fewer units and receives funding through a program administered by the Maine State Housing Authority A nursing home is not considered a housing project under this paragraph

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Sec. 2. 30-A MRSA §4833, 2nd ¶, as enacted by PL 1987, c 737, Pt A, §2 and Pt C, §106 and amended by PL 1989, c 6, c 9, §2, and c 104, Pt C, §§8 and 10, is repealed

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Sec. 3. 30-A MRSA §4972, as amended by PL 1993, c 175, §10, is repealed and the following enacted in its place

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§4972. Definitions

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For the purposes of this subchapter, unless the context otherwise indicates, the following terms have the following meanings

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1 1. **Low-income rental housing.** "Low-income rental housing" means rental housing
 2 with 5 or more residential units in which any of the units are

3 A Subject to federal or state income eligibility restrictions,

4 B Subject to rents that are controlled, regulated or assisted by a federal or state agency
 5 pursuant to a regulatory agreement, rental assistance agreement, restrictive covenant,
 6 mortgage or other documentation, or

7 C The subject of financial assistance given under a federal or state program designed
 8 to provide affordable housing to low-income or moderate-income people

9 2. **Holder.** "Holder" means either the Maine State Housing Authority or a municipal
 10 housing authority that holds the option to purchase a low-income rental housing project

11 **Sec. 4. 30-A MRSA §4973**, as amended by PL 2017, c 234, §36, is further amended
 12 to read

13 **§4973. Notification of intent to sell**

14 Any person, firm or organization that owns or has a controlling interest in any low-
 15 income rental housing may not sell, transfer title, prepay a mortgage or take other action in
 16 regard to the property that would result in the termination of any income eligibility
 17 restrictions, rent restrictions or financial assistance designed to make a rental unit
 18 affordable to low-income or moderate-income people without providing notice, as outlined
 19 in subsection 1, to the tenants of that property, the Maine State Housing Authority and ~~the,~~
 20 if the property is located in the area of operation of a municipal housing authority, if any,
 21 ~~for the municipality in which the property is located~~ the municipal housing authority, as
 22 provided in this section

23 **1. Notice.** The notice must be made to the tenants, the Maine State Housing Authority
 24 and the municipal housing authority, if any, at least 90 days prior to the owner entering into
 25 a contract for the sale or transfer or taking ~~either~~ any action in regard to the property ~~that~~
 26 ~~will result in the termination of financial assistance designed to make the rental units~~
 27 ~~affordable to low income or moderate income people~~ described in this section Failure to
 28 provide notice as required by this subsection does not reduce the 90-day period within
 29 which the Maine State Housing Authority or the municipal housing authority, if any, may
 30 submit, in writing, the intention to pursue the option described in subsection 2

31 **2. ~~Right of first refusal~~ Option.** The Maine State Housing Authority or the municipal
 32 housing authority, if any, has the ~~right of first refusal~~ option to purchase the property at its
 33 current appraised value, as determined by appraisers for the owner and the authority holder
 34 that has stated the intention to exercise the option to purchase The municipal housing
 35 authority must have opportunity to exercise the option to purchase The authority holds the
 36 ~~right of first refusal~~ holder has the option throughout the 90-day period Failure to respond
 37 ~~to the notice of first refusal~~ exercise the option to purchase within 90 days constitutes a
 38 waiver of that ~~right of first refusal~~ option by the authority holder By stating in writing its
 39 intention to pursue its ~~right of first refusal~~ option during the 90-day period, the authority
 40 holder has an additional 90 days, beginning on the date the appraised value is determined
 41 by the appraisers for the owner and the authority holder, to buy or to produce a buyer for
 42 the property This additional 90-day period may be extended by mutual agreement between
 43 the authority holder and the owner of the property The 90-day period and any agreed upon
 44 extension beginning on the date the appraised value is determined is automatically

1 extended for any additional time required to obtain governmental approvals of any sale or
 2 transfer transaction and an additional 60 days after receipt of approval The holder has the
 3 right to assign its option to a nonprofit corporation upon such terms as the holder may
 4 determine, including, but not limited to, requiring the assignee to agree to additional income
 5 eligibility restrictions and rental restrictions for a duration as determined by the holder

6 A Nothing in this section prevents an owner of the property from deciding not to sell,
 7 transfer or take other action ~~that would result in termination of the financial assistance~~
 8 ~~and revoking the notice required by subsection 1 at any time before its expiration~~
 9 described in this section The withdrawal or revocation, or failure to close on a sale
 10 pursuant to the option within the time provided in this subsection, extinguishes any
 11 ~~right of first refusal option~~ held by the ~~Maine State Housing Authority~~ holder or an
 12 assignee

13 **3. Exceptions.** ~~The Maine State Housing Authority holder~~ may not possess any ~~right~~
 14 ~~of first refusal option~~ when a bona fide buyer, by contract with the seller, agrees to maintain
 15 the property as low-income housing without any termination or other modification to the
 16 income eligibility restrictions or rental restrictions or financial assistance applicable to the
 17 property The notice provisions of this section apply to this subchapter '

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

20 **SUMMARY**

21 This amendment replaces the bill and changes the title The amendment makes changes
 22 to the law related to low-income housing and programs administered by the Maine State
 23 Housing Authority Under current law, the Maine State Housing Authority has the right of
 24 first refusal to purchase low-income rental housing unless a bona fide buyer, by contract
 25 with the seller, agrees to maintain the property as low-income housing The amendment
 26 removes reference to right of first refusal and provides that either the Maine State Housing
 27 Authority or a municipal housing authority has an option to purchase a low-income rental
 28 property with the municipal housing authority having the first option The amendment
 29 clarifies that a failure by an owner to provide required notice of an intent to sell the property
 30 or take an action that would result in termination of income eligibility restrictions or rental
 31 restrictions does not reduce the time period within which the Maine State Housing
 32 Authority or a municipal housing authority has to provide in writing an intent to exercise
 33 the option to purchase the property The amendment also authorizes the assignment of the
 34 purchase option to a nonprofit corporation The amendment also extends the option period,
 35 after the appraised value is agreed upon, to allow for the application for any necessary
 36 government approvals

37 The amendment repeals the cap on the amount of outstanding principal on construction
 38 loan bonds held by the Maine State Housing Authority

39 The amendment also amends the law that governs state growth-related capital
 40 investments by permitting investment in a low-income housing project of 18 or fewer units
 41 for individuals with a household income of no more than 80% of the area median income