

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1493

H.P. 948

House of Representatives, April 5, 2023

**An Act to Increase Affordable Housing by Expanding Tax
Increment Financing**

Reference to the Committee on Taxation suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative LaROCHELLE of Augusta.
Cosponsored by Representatives: ANKELES of Brunswick, BRIDGEO of Augusta,
LANIGAN of Sanford, PERRY of Bangor, WHITE of Waterville.

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

2 **Sec. 1. 30-A MRSA §5225, sub-§1, ¶D**, as amended by PL 2021, c. 261, §7, is
3 further amended to read:

4 D. Costs of constructing or improving facilities or buildings leased by State
5 Government or a municipal or plantation government that are located in approved
6 downtown tax increment financing districts; ~~and~~

7 **Sec. 2. 30-A MRSA §5225, sub-§1, ¶E**, as enacted by PL 2021, c. 261, §8, is
8 amended to read:

9 E. Costs associated with the development and operation of affordable housing or
10 housing services for persons who are experiencing homelessness as defined in the
11 municipality's or plantation's development program; and

12 **Sec. 3. 30-A MRSA §5225, sub-§1, ¶F** is enacted to read:

13 F. Costs of constructing or improving facilities or buildings owned by the municipality
14 as part of a qualified project as described by section 5250-W, subsection 3.

15 **Sec. 4. 30-A MRSA c. 206, sub-c. 7** is enacted to read:

16 **SUBCHAPTER 7**

17 **PINE TREE HOUSING ZONES**

18 **§5250-W. Pine Tree Housing Zones**

19 **1. Definitions.** As used in this subchapter, unless the context otherwise indicates, the
20 following terms have the following meanings.

21 A. "Pine Tree Housing Zone" means a zone authorized to be established under this
22 subchapter.

23 B. "Qualified project" means a project that meets the requirements of subsection 3.

24 C. "Workforce housing" means a housing project that will create long-term residential
25 housing for households with earned income that is insufficient to secure quality
26 housing in reasonable proximity to the workplace or for workers identified as essential
27 by a municipality, including workers in public service, public safety, education, marine
28 services, tourism or manufacturing industries.

29 **2. Zones authorized.** The municipality may designate a Pine Tree Housing Zone if
30 the municipality:

31 A. Has, at the time of the designation, a:

32 (1) Development district that uses tax increment financing;

33 (2) State tax increment financing district; or

34 (3) Pine Tree Development Zone;

35 B. Is facing a shortage of workforce housing or affordable rental housing; and

36 C. Has met other requirements specified by rule adopted by the commissioner.

- 1 **3. Qualified project.** In order to be a qualified project, a project must:
- 2 A. Devote 50% of the area of the project to workforce housing or affordable rental
- 3 housing;
- 4 B. Maintain the areas of workforce housing or affordable rental housing as workforce
- 5 housing or affordable housing for a period of at least 20 years;
- 6 C. Be located in a Pine Tree Housing Zone; and
- 7 D. Meet other qualifications specified by rule adopted by the commissioner.

8 **4. Use of tax increment financing revenue.** Notwithstanding any provision of law to

9 the contrary, tax increment financing revenue may be used to finance a qualified project

10 located anywhere in the municipality in which the qualified project is located.

11 **5. Recovery of public funds.** The Maine State Housing Authority shall develop by

12 rule provisions for recovery of public revenue if conditions for approval of an affordable

13 housing development district are not maintained for the duration of the district. Rules

14 adopted by the authority pursuant to this subsection are major substantive rules as defined

15 in Title 5, chapter 375, subchapter 2-A.

16 **6. Rules.** The commissioner shall administer this subchapter. The commissioner shall

17 adopt rules pursuant to the Maine Administrative Procedure Act for implementation of Pine

18 Tree Housing Zones, including, but not limited to, rules for determining and certifying

19 eligibility, selecting zones for designation and evaluating on a periodic basis the progress

20 and success of each zone in achieving the Pine Tree Housing Zone's goals. Except as

21 provided in subsection 5, rules adopted under this section are routine technical rules as

22 defined in Title 5, chapter 375, subchapter 2-A.

23 **Sec. 5. 36 MRSA §1760, sub-§87-A** is enacted to read:

24 **87-A. Sales of tangible personal property and transmission and distribution of**

25 **electricity to qualified projects in Pine Tree Housing Zones.** Sales of tangible personal

26 property, and of the transmission and distribution of electricity, for use directly and

27 primarily by a qualified project, as described in Title 30-A, section 5250-W, subsection 3.

28 The exemption provided by this subsection is limited for each qualified project to sales

29 occurring within a period of 10 years of the beginning of construction of the qualified

30 project. As used in this subsection, "primarily" means more than 50% of the time during

31 the period that begins on the date on which the property is first placed in service by the

32 purchaser and ends 2 years from that date or at the time the property is sold, scrapped,

33 destroyed or otherwise permanently removed from service by the purchaser, whichever

34 occurs first.

35 **Sec. 6. 36 MRSA §2016-A** is enacted to read:

36 **§2016-A. Pine Tree Housing Zones qualified projects; reimbursement of certain taxes**

37 **1. Terms defined.** As used in this section, the term "qualified project" means a project

38 described in Title 30-A, section 5250-W, subsection 3. For the purposes of this section,

39 "primarily" means more than 50% of the time during the period that begins on the date on

40 which the property is first placed in service by the purchaser and ends 2 years from that

41 date or at the time the property is sold, scrapped, destroyed or otherwise permanently

42 removed from service by the purchaser, whichever occurs first.

1 **2. Reimbursement allowed.** A reimbursement is allowed as provided in this section
2 for a tax paid pursuant to this Part with respect to:

3 A. The sale or use of tangible personal property that is physically incorporated in and
4 becomes a permanent part of real property that is owned by or sold to a qualified project
5 and that is used directly and primarily by that qualified project; or

6 B. The sale or use of tangible personal property and the transmission and distribution
7 of electricity to a qualified project.

8 **3. Audit.** The assessor has the authority to audit any claim filed under this section. If
9 the assessor determines that the amount of the claimed reimbursement is incorrect, the
10 assessor shall redetermine the claim and notify the claimant in writing of the
11 redetermination. If the claimant has received reimbursement of an amount that the assessor
12 concludes should not have been reimbursed, the assessor may issue an assessment for that
13 amount within 3 years of the date the reimbursement claim was filed or at any time if a
14 fraudulent reimbursement claim was filed. The claimant may seek reconsideration,
15 pursuant to section 151, of the redetermination or assessment.

16 **4. Payment of claims.** The assessor shall determine the benefit for each claimant
17 under this section. The assessor shall pay the certified amounts to each approved applicant
18 qualifying for the benefit under this section within 30 days of receipt of a properly
19 completed claim. Interest is not allowed on any payment made to a claimant pursuant to
20 this section.

21 **SUMMARY**

22 This bill authorizes the creation of Pine Tree Housing Zones to allow retained value
23 resulting from a tax increment financing district in a municipality to be used anywhere in
24 the municipality for the purposes of the purchase, rehabilitation or establishment of
25 affordable and workforce housing in the municipality. The bill provides for a sales tax
26 exemption for the associated purchasing of goods and services and electricity for a qualified
27 project in a Pine Tree Housing Zone.