

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1810

H.P. 1155

House of Representatives, April 25, 2023

**An Act to Expand the Maine Historic Rehabilitation Credit and
Establish a Weatherization Tax Credit**

Reference to the Committee on Taxation suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative TERRY of Gorham.
Cosponsored by Representatives: MALON of Biddeford, O'NEIL of Saco, SCHMERSAL-
BURGESS of Mexico, SHEEHAN of Biddeford, Speaker TALBOT ROSS of Portland.

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

2 **Sec. 1. 27 MRSA §511, sub-§1**, as enacted by PL 2007, c. 539, Pt. WW, §1, is
3 amended to read:

4 **1. Program.** The director shall administer, in consultation with the Department of
5 Administrative and Financial Services, Bureau of Revenue Services, a program in support
6 of state rehabilitation tax credits for income-producing historic structures pursuant to Title
7 36, section 5219-BB and historic homes pursuant to Title 36, section 5219-AAA.

8 **Sec. 2. 27 MRSA §511, sub-§2-A** is enacted to read:

9 **2-A. Certification for the rehabilitation and weatherization of historic homes.**
10 The director shall certify information necessary for applicants to demonstrate eligibility for
11 an income tax credit under Title 36, section 5219-AAA, in accordance with this subsection.

12 A. As used in this subsection the following terms have the following meanings.

13 (1) "Certified exterior rehabilitation expenditures" has the same meaning as in
14 Title 36, section 5219-AAA, subsection 1, paragraph A.

15 (2) "Certified historic home" has the same meaning as in Title 36, section
16 5219-AAA, subsection 1, paragraph B.

17 (3) "Qualified exterior rehabilitation expenditure" has the same meaning as in Title
18 36, section 5219-AAA, subsection 1, paragraph D.

19 B. The director may require the following information:

20 (1) The certified exterior rehabilitation of a certified historic home is consistent
21 with subsection 2, paragraph A;

22 (2) The qualified exterior rehabilitation expenditures meet the requirements for an
23 income tax credit under Title 36, section 5219-AAA; and

24 (3) Any one of the following criteria apply to the certified historic home. The
25 certified historic home is:

26 (a) A building individually listed in or determined to be eligible for listing in
27 the National Register of Historic Places;

28 (b) Classified as contributing to a local historic district listed in or eligible for
29 listing in the National Register of Historic Places;

30 (c) Designated as a local landmark or contributing to a local historic district
31 that has been listed in the National Register of Historic Places; and

32 (d) Designated as a local landmark or contributing to a local historic district
33 that substantially meets the National Register of Historic Places criteria as
34 determined by the director.

35 For the purposes of credit claimed under Title 36, section 5219-AAA, buildings and
36 districts determined to be eligible for listing in the National Register of Historic Places, as
37 well as locally designated landmarks and districts, do not have to be nominated to the
38 National Register of Historic Places.

39 The director shall adopt rules implementing this subsection. Rules adopted pursuant to this
40 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1 **Sec. 3. 27 MRSA §511, sub-§5, ¶B**, as amended by PL 2011, c. 453, §1, is further
2 amended to read:

3 B. ~~By January 15, 2013, the Maine Historic Preservation Commission shall review the~~
4 ~~tax credit provided under Title 36, section 5219-BB and shall make recommendations~~
5 ~~to the joint standing committee of the Legislature having jurisdiction over taxation~~
6 ~~matters regarding specific proposals for funding the credit.~~ By January 15, 2015 and
7 every 2 years thereafter, the Maine Historic Preservation Commission shall analyze the
8 use of tax credits provided under Title 36, ~~section~~ sections 5219-BB and 5219-AAA as
9 an incentive for rehabilitation of historic structures and economic development,
10 analyze tax and other revenues generated by the rehabilitation to determine in relation
11 to the ~~cost~~ costs of the ~~credit~~ credits if they exceed the costs of the ~~credit~~ credits and
12 report the results of its analysis to the joint standing committee of the Legislature
13 having jurisdiction over taxation matters with recommendations as to whether the
14 credits under Title 36, ~~section~~ sections 5219-BB and 5219-AAA should be extended,
15 repealed or amended. The recommendations must include specific proposals for
16 funding the ~~credit~~ credits after fiscal year 2014-15 and appropriate transition provisions
17 in order that projects in the development or planning states are not adversely affected.
18 The joint standing committee may submit legislation related to the report.

19 **Sec. 4. 36 MRSA §5219-BB, sub-§2, ¶B**, as amended by PL 2011, c. 240, §38, is
20 further amended to read:

21 B. Equal to ~~25%~~ 30% of the certified qualified rehabilitation expenditures of a taxpayer
22 who incurs not less than \$50,000 and up to ~~\$250,000~~ \$1,000,000 in certified qualified
23 rehabilitation expenditures in the rehabilitation of a certified historic structure located
24 in the State and who does not claim a credit under the Code, Section 47 with regard to
25 those expenditures. If the certified historic structure is a condominium, as defined in
26 Title 33, section 1601-103, subsection 7, the dollar limitations of this paragraph apply
27 to the total aggregate amount of certified qualified rehabilitation expenditures incurred
28 by the unit owners' association and all of the unit owners in the rehabilitation of that
29 certified historic structure. The credit may be claimed for the taxable year in which the
30 certified historic structure is placed in service.

31 **Sec. 5. 36 MRSA §5219-BB, sub-§3**, as amended by PL 2019, c. 379, Pt. C, §4,
32 is further amended to read:

33 **3. Increased credit for a certified affordable housing project.** The credit allowed
34 ~~under this section subsection 2, paragraph A~~ is increased to ~~30%~~ 35% of certified qualified
35 rehabilitation expenditures for a certified affordable housing project ~~and the credit allowed~~
36 ~~under subsection 2, paragraph B~~ is increased to 45% of certified qualified rehabilitation
37 expenditures for a certified affordable housing project. If the certified affordable housing
38 project for which an increased credit was allowed under this subsection does not remain an
39 affordable housing project for 30 years from the date the affordable housing project is
40 placed in service, the owner of the property is subject to the repayment provisions of Title
41 30-A, section 4722, subsection 1, paragraph DD. ~~Upon notification by the Maine Historic~~
42 ~~Preservation Commission and the Maine State Housing Authority pursuant to Title 30-A,~~
43 ~~section 4722, subsection 1, paragraph DD, subparagraph (4), the State Tax Assessor shall~~
44 ~~increase the credit rate under this subsection that was in effect in the calendar year prior to~~
45 ~~the calendar year in which the notification was received by one percentage point for tax~~

1 years beginning in the calendar year of that notification and for any subsequent tax year.
2 In no event may the credit rate under this subsection exceed 35% of the taxpayer's certified
3 qualified rehabilitation expenditures.

4 **Sec. 6. 36 MRSA §5219-AAA** is enacted to read:

5 **§5219-AAA. Credit for rehabilitation and weatherization of historic homes**

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

8 A. "Certified exterior rehabilitation" means the exterior restoration, preservation or
9 reconstruction, including weatherization, of a certified historic home that the Director
10 of the Maine Historic Preservation Commission certifies is consistent under Title 27,
11 section 511, subsection 2, paragraph A.

12 B. "Certified historic home" means a structure located in the State that is a taxpayer's
13 homestead, as defined in section 681, subsection 2, that contains up to 4 dwelling units,
14 that has been certified by the Director of the Maine Historic Preservation Commission
15 as a historic structure under Title 27, section 511, subsection 2 and that may include
16 any ancillary buildings that contribute to the historical significance of the historic, as
17 determined by the Director of the Maine Historic Preservation Commission.

18 C. "Dwelling unit" means a house or apartment used as a residence for an occupant.

19 D. "Qualified exterior rehabilitation expenditure" means any amount incurred by a
20 taxpayer that is reasonably related to a certified exterior rehabilitation, as determined
21 by the Director of the Maine Historic Preservation Commission.

22 E. "Residence" has the same meaning as in Title 21-A, section 112, subsection 1.

23 **2. Credit allowed.** A taxpayer is allowed a credit against the tax imposed under this
24 Part equal to 25% of the qualified exterior rehabilitation expenditure of a taxpayer who
25 incurs at least \$5,000 and not more than \$62,500 in qualified exterior rehabilitation
26 expenditures for the certified exterior rehabilitation of a certified historic home.

27 **3. Increased credit for certain taxpayers and the creation of new housing.** The
28 credit allowed under this section is increased to 30% of qualified exterior rehabilitation
29 expenditures, up to a maximum credit of \$75,000 per certified exterior rehabilitation of a
30 certified historic home, if:

31 A. The taxpayer's income in the year in which the qualified exterior rehabilitation
32 expenditures were accrued is at or below 120% of the median income for the area as
33 defined by the United States Department of Housing and Urban Development under
34 the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as
35 amended;

36 B. For a certified historic home with more than one dwelling unit, that taxpayer agrees,
37 for a period of 4 years, to rent at least one dwelling unit to a household with income at
38 or below 100% of the median income for the area as defined by the United States
39 Department of Housing and Urban Development under the United States Housing Act
40 of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, measured at the time
41 of initial occupancy; and

1 C. The certified historic home has not been used as a residence by tenants or property
2 owners for the 5 years prior to the year in which the credit is first claimed.

3 **4. Timing of credit.** Twenty-five percent of the credit allowed under this section must
4 be taken in the taxable year the credit may be first claimed and 25% must be taken in each
5 of the next 3 taxable years.

6 **5. Credit refundable.** The credit allowed under this section is refundable.

7 **6. Transfer upon sale or for financing.** Upon the sale or transfer of a certified
8 historic home, a taxpayer eligible for the credit under this section shall transfer, sell or
9 assign to the subsequent owner the credit for the year in which the certified historic home
10 is transferred or sold and any remaining portion of the credit for any subsequent years. A
11 taxpayer may transfer, sell or assign any portion of the credit to a mortgagor for the
12 purposes of securing financing for the completion of the certified exterior rehabilitation.

13 **7. Recapture.** The credits allowed under this section are subject to recapture if, before
14 the final taxable year the credit can be taken:

15 A. Any exterior alterations are made to the certified historic home without the prior
16 approval of the Director of the Maine Historic Preservation Commission; or

17 B. The certified historic home ceases to be the homestead of the taxpayer or the
18 successor taxpayer who has been assigned credits pursuant to subsection 6.

19 The recapture amount under paragraph A or B is equal to the amount of credit remaining
20 to be claimed for the taxable year in which the recapture occurred and all subsequent years.
21 If a taxpayer claims the income tax credit increase under subsection 3, paragraph B, but
22 fails or ceases to rent a dwelling unit to a household at or below 100% of the median income
23 for the area as required, the entire income tax credit increase under subsection 3, paragraph
24 B is subject to recapture.

25 **8. Limitation.** A taxpayer who is eligible to claim a credit under section 5219-R or
26 5219-BB, whether or not a credit is actually claimed, may not claim a credit under this
27 section.

28 **9. Rules.** The bureau shall adopt rules implementing this section. Rules adopted
29 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
30 subchapter 2-A.

31 **Sec. 7. Appropriations and allocations.** The following appropriations and
32 allocations are made.

33 **HISTORIC PRESERVATION COMMISSION, MAINE**

34 **Historic Preservation Commission 0036**

35 Initiative: Provides ongoing funds for 2 Historic Preservationist Coordinator positions and
36 related All Other costs to implement the certification obligations of the Director of the
37 Maine Historic Preservation Commission under the Maine Revised Statutes, Title 27,
38 section 511 for the expanded small project credit under Title 36, section 5219-BB and the
39 new tax credit for the rehabilitation and weatherization of historic homes under Title 36,
40 section 5219-AAA. One position begins October 1, 2023 and one position begins July 1,
41 2024.

42 **GENERAL FUND** **2023-24** **2024-25**

1	POSITIONS - LEGISLATIVE COUNT	1.000	2.000
2	Personal Services	\$73,780	\$207,994
3	All Other	\$6,750	\$18,000
4			
5	GENERAL FUND TOTAL	\$80,530	\$225,994

6 **SUMMARY**

7 This bill amends the tax credit for historic properties by:

8 1. Increasing the tax credit from 25% to 30% of the certified qualified rehabilitation
9 expenditures of a taxpayer for a certified historic structure if the taxpayer does not claim a
10 credit under the United States Internal Revenue Code of 1986, Section 47;

11 2. Increasing the allowable certified qualified rehabilitation expenditures of a taxpayer
12 from a maximum of \$250,000 to a maximum of \$1,000,000 for a certified historic structure
13 if the taxpayer does not claim a credit under the Code, Section 47;

14 3. Increasing the increased tax credit for a certified affordable housing project from
15 30% to 35% of certified qualified rehabilitation expenditures for which a credit is claimed
16 under the Code, Section 47; and

17 4. Increasing the increased tax credit for a certified affordable housing project from
18 30% to 45% of certified qualified rehabilitation expenditures if the taxpayer does not claim
19 a credit under the Code, Section 47.

20 The bill establishes a credit for rehabilitation and weatherization of historic homes
21 equal to 25% of the qualified exterior rehabilitation expenditures of a taxpayer who incurs
22 at least \$5,000 in expenditures for a certified historic home. It also provides for an increased
23 credit of 30% of expenditures up to \$75,000 under certain circumstances. It requires the
24 Director of the Maine Historic Preservation Commission to determine whether a taxpayer
25 meets the requirements to receive the credit.

26 The bill adds the credit for rehabilitation and weatherization of historic homes to the
27 biennial report that the Maine Historic Preservation Commission provides to the
28 Legislature.