

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
113TH LEGISLATURE  
FIRST REGULAR SESSION

REPORT  
OF  
THE MUNICIPAL LAND BANK  
STUDY COMMISSIONN

February 1987

MEMBERS:

Sen. R. Donald Twitchell, Chair  
Sen. Judy Kany  
Rep. James Mitchell, Chair  
Rep. Joseph Mayo  
Rep. Muriel Holloway  
Rep. Stephen Zirkilton

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MAINE STATE LEGISLATURE  
Augusta, Maine 04333

February 24, 1987

Sen. Charles P. Pray  
Senate President  
State House, Station 3  
Augusta, ME 04333

Speaker John L. Martin  
House of Representatives  
State House, Station 2  
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Municipal Land Bank Study Committee is pleased to submit its findings and recommendations as required by Chapter 119 of the Private and Special Laws of 1985.

The Committee met several times during the past fall and early winter. We reviewed legislation relating to municipal land banks which was submitted during the Second Regular Session of the 112th Legislature. We considered the need for municipal land banks and possible methods of funding. We made the following findings.

1. Maine has the lowest percentage of publically owned land of any state in the nation.
2. Preserving some undeveloped land is wise public policy because of the benefits from preserving access to the waterfront, scenic character, recreational opportunities, flood protection, wildlife habitat and similar effects.
3. Development pressure in recent years and consequent high land values in many communities have resulted in the sale of a considerable amount of privately held undeveloped land for development purposes. This is especially true in southern and central coastal communities and in many inland lake regions.

4. There is a need for municipal involvement in preserving undeveloped land. Most other similar activities by the State or by private organizations are limited and directed toward statewide goals. Land may have local significance without being a statewide priority.

5. Municipalities currently lack the resources to preserve undeveloped land for the benefit of their residents.

6. Municipal land banks can be an effective mechanism for enabling municipalities to take an active role in protecting underdeveloped land through the purchase of land or rights in land on behalf of the public.

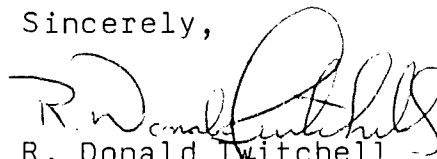
7. The preferred source of funding for municipal land banks is a local option real estate transfer tax.

The Committee reviewed several possible sources of funding for municipal land banks including the property tax, a local option real estate transfer tax, a land gains tax, state general fund revenue and bonding.

The Committee's recommendations are contained in the attached legislation which provides enabling provisions for local municipal land banks to be funded by a local option real estate transfer tax with a maximum rate of 0.4% of the selling price of real estate transferred within the municipality. The legislation provides an exemption from the tax for the first \$77,000 of residential property in order to alleviate the burden of the tax on most low and middle income home buyers. The local option real estate transfer tax is a reasonable source of revenue. The total collections by a municipality will vary as the value of land and the number of transactions increases. These factors are reasonable indicators of the extent of development pressure. As pressure increases, so will revenue to the municipal land bank, thereby enhancing the municipality's capacity to protect undeveloped land.

Thank you for giving us the opportunity to be involved in this important issue.

Sincerely,

  
R. Donald Twitchell  
Senate Chair

  
James Mitchell  
House Chair

FIRST REGULAR SESSION  
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ONE HUNDRED AND THIRTEENTH LEGISLATURE  
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Legislative Document

No.  
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STATE OF MAINE  
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY SEVEN  
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AN ACT Enabling Municipalities  
to Establish Municipal Land Banks  
Funded by a Local Option Real Estate  
Transfer Tax.  
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Be it enacted by the People of the State of Maine as follows:

36 MRSA c. 712-A is enacted to read:

CHAPTER 712-A

LOCAL OPTION REAL ESTATE TRANSFER TAX

§4661. Local real estate transfer tax

A municipality adopting a municipal land bank pursuant to this chapter may impose a real estate transfer tax on both the transferor and the transferee of real estate according to the following procedure and limitations.

1. Referendum. A local real estate transfer tax may be imposed by a municipality if it is approved by referendum conducted according to the provisions of Title 30, section 2061.

2. Rate of tax. The referendum question shall specify the rate of the tax which may not exceed 0.4% of the taxable base of the property subject to the tax.

3. Taxable base. The base to which the tax is applied is the amount subject to tax under Title 36, chapter 711-A, less \$77,000 if the property subject to the tax is the primary residence of the transferor or will be the primary residence of the transferee. Transfers which are exempt from the tax under chapter 711-A are also exempt from the tax authorized by this chapter.

4. Liability. The transferor of property is liable for 1/2 of the tax. The transferee is liable for the remaining half.

5. Notification. Each municipality adopting a local real estate transfer tax under this chapter shall notify the registrar of deeds of the county in which the municipality is located and the State Tax Assessor at least 60 days prior to the effective date of the tax.

6. Collection. The tax shall be collected by the registrar of deeds at the same time as the tax imposed under chapter 711-A. The registrar shall pay over to each municipality imposing a tax under this chapter the amount attributable to that municipality. Payment shall be made at the same time as payments of the state real estate transfer tax are made to the State Tax Assessor.

7. Use of revenues. All revenues received by a municipality from the tax authorized by this chapter shall be deposited in a municipal land bank account and may be used only for the purposes permitted under this chapter.

8. Failure to pay the tax. Failure to pay the tax provided by this chapter shall be subject to a penalty, in addition to the tax, equal to the amount of the tax and interest at the rate determined pursuant to Title 36, section 186. Penalties and interest due under this chapter shall be paid to the municipality in which the tax is due. Penalties and interest may be recovered by the municipality in a civil suit.

§4662. Municipal land bank

A municipality imposing a local real estate transfer tax shall establish a municipal land bank.

1. Referendum. The municipal land bank must be approved by referendum according to the provisions of Title 30, section 2061. It may be approved as part of the referendum adopting a local real estate transfer tax or as a separate measure.

2. Administration. The referendum shall provide that the municipal land bank will be administered by a commission and shall specify number, qualifications, terms of office and powers and duties of commission members.

3. Limitation. Funds in a municipal land bank are restricted to the following uses:

A. Acquisition or management of interests in land within the municipality for the purposes of:

i. preserving it in an undeveloped state;

ii. conserving natural or scenic resources or preserving wildlife habitat;

iii. maintaining or improving recreational opportunities within the municipality; or

B. Any other purposes which are incidental to the purposes permitted by this section, including administrative costs and the costs of employing staff but not including costs of maintaining or improving land.

#### STATEMENT OF FACT

This bill is the recommendation of the Municipal Land Bank Study Committee as a result of its study of the need for municipal land banks and preferred methods of funding.

The bill permits a municipality to impose a local real estate transfer tax for the purpose of funding a municipal land bank. The municipality would be required to hold a referendum on imposition of the tax. The tax would be limited to 0.4% of the taxable base of property transferred within the municipality to be paid one half by the transferor and one half by the transferee. The first \$77,000 of the value of primary residences would be exempt from the tax. The tax would be collected by the county registrars of deeds at the same time as the State real estate transfer tax. Revenues obtained through a local real estate transfer tax would be restricted to the acquisition or management of land for the purposes of preserving undeveloped land, conserving natural or scenic resources or wildlife habitat, maintaining or improving recreational opportunities or other incidental purposes, including administrative costs but not including maintenance or improvements.