

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Enhance a Community's Capacity To Support Affordable Housing**

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

**Sec. 1. 36 MRSA c. 712-A** is enacted to read:

### **CHAPTER 712-A**

### **LOCAL OPTION REAL ESTATE TRANSFER TAX**

#### **§ 4681. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. Other terms have the same meanings as in chapter 711-A.

**1. Eligible individual or family.** "Eligible individual or family" means an individual or family whose total adjusted gross income is less than 120% of the median income for the United States Department of Labor district in which the eligible property was sold.

**2. Eligible property.** "Eligible property" means a unit of real property designed to be occupied as a residence by a single family that is transferred for consideration of more than \$500,000.

**3. Local option real estate transfer tax.** "Local option real estate transfer tax" means the real estate transfer tax imposed by a participating municipality on eligible property pursuant to section 4682.

**4. Participating municipality.** "Participating municipality" means a municipality that elects to impose a local option real estate transfer tax pursuant to section 4682.

#### **§ 4682. Imposition and collection of local option real estate transfer tax**

A participating municipality may impose a local option real estate transfer tax of 1% on the transferor of eligible property. The local option real estate transfer tax must be collected in the same manner and at the same time as the tax collected pursuant to section 4641-B, subsection 1. The tax imposed pursuant to this section is in addition to the real estate transfer tax imposed pursuant to section 4641-A.

#### **§ 4683. Determination and payment of municipal share; administrative costs**

On the last day of each month, the register of deeds shall identify the amount of revenue under this chapter attributable to each participating municipality, based on the location of the properties being transferred and the amount of tax collected under section 4682 for those properties minus 10% to be retained by the county to cover the costs of administering this chapter, and certify the net amount due the municipality to the county treasurer. Each county treasurer shall, on or before the 10th day of each month,

pay over to each municipality that municipality's share of the tax collected pursuant to this chapter for the previous month. If the tax collected is not paid over by the 10th day of the month, the municipality may impose interest pursuant to section 186.

### **§ 4684. Use of revenue for affordable housing**

Funds received pursuant to section 4683 by a participating municipality must be managed as prescribed in this section.

**1. Use for development of affordable housing.** Each participating municipality shall deposit the revenue received pursuant to section 4683 in a segregated account. Funds within the segregated account must be disbursed to:

A. A housing authority within the municipality;

B. A nonprofit housing trust or nonprofit housing corporation located in the municipality that is organized in this State under Title 13-B and that qualifies for the tax exemption under 26 United States Code, Section 501(c); or

C. A nonprofit organization established for the purpose of building, buying or developing affordable rental and owner-occupied housing in the municipality for eligible individuals or families.

If the municipality does not have any of the organizations listed in paragraphs A, B and C, then the municipality shall transfer all funds received pursuant to section 4683 to the Maine State Housing Authority.

**2. Requirements of housing organization.** An organization receiving funds pursuant to subsection 1, paragraph A, B or C shall develop affordable housing in the municipality from which the funds were received. At least 30% of the housing developed pursuant to this subsection must be considered affordable housing, as determined by the Maine State Housing Authority. The organization shall maintain equity in the affordable housing at a rate set by the organization and shall include in the deed to the affordable housing the right of first refusal.

**3. Prohibited use.** A municipality shall determine its annual budget and assessment without consideration of the amount received pursuant to section 4683. Revenue generated pursuant to this section may not be used to supplant local funds.

### **§ 4685. Referendum**

The question of whether to impose a local option real estate transfer tax must be submitted to the legal voters of a municipality that seeks to impose the local option real estate transfer tax.

The petition process and the voting at elections must be held and conducted in accordance with Title 30-A, sections 2528, 2529 and 2532 even if the municipality has not accepted the provisions of section 2528. The voting at elections held in municipalities must be held and conducted in accordance

with Title 21-A. The municipal clerk shall make a return of the results, certify the results and send them to the Secretary of State. The Secretary of State shall forward the results to the register of deeds for that municipality.

The local option real estate transfer tax may be discontinued by referendum conducted in the same manner as the referendum adopting the tax under this section.

A vote by a municipality to adopt or repeal a local option real estate transfer tax may not be held more often than once each year. The municipality must notify the assessor and the county register of deeds within 30 days of the outcome of any election.

### **§ 4686. Effective date of tax**

The local option real estate transfer tax authorized by this chapter takes effect 120 days after the municipal referendum vote under section 4685 if it is accepted by a majority of the local voters voting at the election and the total number of votes cast equals or exceeds 20% of the total number of votes cast in that municipality in the most recent gubernatorial election.

## **SUMMARY**

This bill allows a municipality to impose a local option real estate transfer tax of 1% on the transfer of property sold for more than \$500,000. Revenue from the tax must be distributed by the municipality levying the tax to local nonprofit housing organizations for the purpose of building, buying or developing affordable rental and owner-occupied housing in the municipality for eligible individuals or families. "Eligible individual or family" is defined as an individual or family whose total adjusted gross income is less than 120% of the median income for the United States Department of Labor district in which the eligible property was sold. If the municipality does not have a local nonprofit housing organization, the municipality must send the revenue to the Maine State Housing Authority.