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No. 1072

H.P. 765

House of Representatives, March 19, 2013

An Act To Provide Accountability in the Handling of Affordable Housing Tenants' Security Deposits

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CHIPMAN of Portland.
Cosponsored by Representatives: CAMPBELL of Newfield, GILBERT of Jay, HAMANN of South Portland, MASON of Topsham, NADEAU of Winslow, VOLK of Scarborough, WINCHENBACH of Waldoboro, Senator: PATRICK of Oxford.

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

2 **Sec. 1. 30-A MRSA §4722, sub-§1, ¶CC**, as corrected by RR 2009, c. 2, §85, is
3 amended to read:

4 CC. Encourage and provide incentives to individuals and entities that conserve
5 energy; support and participate, with resources derived from sources except the
6 conservation program fund under Title 35-A, section 10110, subsection 7, in markets
7 that reward energy conservation and use the proceeds from this participation to
8 support affordable housing programs under its jurisdiction; and create and administer
9 programs that encourage individuals and entities to conserve energy; ~~and~~

10 **Sec. 2. 30-A MRSA §4722, sub-§1, ¶DD**, as amended by PL 2011, c. 453, §2, is
11 further amended to read:

12 DD. Certify affordable housing projects for the purpose of the income tax credit
13 increase under Title 36, section 5219-BB, subsection 3; administer and enforce the
14 affordability requirements set forth in this paragraph; and perform other functions
15 described in this paragraph and necessary to the powers and duties described in this
16 paragraph.

17 (1) For purposes of this paragraph, unless the context otherwise indicates, the
18 following terms have the following meanings.

19 (a) "Affordable housing" means a decent, safe and sanitary dwelling,
20 apartment or other living accommodation for a household whose income
21 does not exceed 60% of the median income for the area as defined by the
22 United States Department of Housing and Urban Development under the
23 United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8,
24 as amended.

25 (b) "Affordable housing project" means a project in which:

26 (i) At least 50% of the aggregate square feet of the completed project is
27 housing of which at least 50% of the aggregate square feet of the
28 completed housing creates new affordable housing; or

29 (ii) At least 33% of the aggregate square feet of the completed project
30 creates new affordable housing.

31 (2) An affordable housing project for which the owner of the property received
32 the income tax credit increase under Title 36, section 5219-BB, subsection 3 must
33 remain an affordable housing project for 30 years from the date the affordable
34 housing project is placed in service. If the property does not remain an
35 affordable housing project for 30 years from the date the affordable housing
36 project is placed in service, the owner of the property shall pay to the Maine State
37 Housing Authority for application to the Housing Opportunities for Maine Fund
38 established under section 4853 an amount equal to the income tax credit increase
39 allowed under Title 36, section 5219-BB, subsection 3, plus interest on that
40 amount at the rate of 7% per annum from the date the property is placed in
41 service until the date of payment of all amounts due. The affordability

1 requirements and the repayment obligation in this subparagraph must be set forth
2 in a restrictive covenant executed by the owner of the property and the affordable
3 housing project for the benefit of and enforceable by the Maine State Housing
4 Authority and recorded in the appropriate registry of deeds before the owner of
5 the property claims the income tax credit increase under Title 36, section
6 5219-BB, subsection 3.

7 (3) If the repayment obligation in subparagraph (2) is not fully satisfied after
8 written notice is sent by certified mail or registered mail to the owner of the
9 property at the owner's last known address, the Maine State Housing Authority
10 may file a notice of lien in the registry of deeds of the county in which the real
11 property subject to the lien is located. The notice of lien must specify the amount
12 and interest due, the name and last known address of the owner, a description of
13 the property subject to the lien and the Maine State Housing Authority's address
14 and the name and address of its attorney, if any. The Maine State Housing
15 Authority shall send a copy of the notice of lien filed in the registry by certified
16 mail or registered mail to the owner of the property at the owner's last known
17 address and to any person who has a security interest, mortgage, lien,
18 encumbrance or other interest in the property that is properly recorded in the
19 registry of deeds in which the property is located. The lien arises and becomes
20 perfected at the time the notice is filed in the appropriate registry of deeds in
21 accordance with this subparagraph. The lien constitutes a lien on all property
22 with respect to which the owner receives the income tax credit increase under
23 Title 36, section 5219-BB, subsection 3 and the proceeds of any disposition of
24 the property that occurs after notice to the owner of the repayment obligation.
25 The lien is prior to any mortgage and security interest, lien, restrictive covenant
26 or other encumbrance recorded, filed or otherwise perfected after the notice of
27 lien is filed in the appropriate registry of deeds. The lien may be enforced by a
28 turnover or sale order in accordance with Title 14, section 3131 or any other
29 manner in which a judgment lien may be enforced under the law. The lien must
30 be in the amount of the income tax credit increase allowed under Title 36, section
31 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum
32 from the date the property is placed in service until the date of payment of all
33 amounts due. Upon receipt of payment of all amounts due under the lien, the
34 Maine State Housing Authority shall execute a discharge lien for filing in the
35 registry or offices in which the notice of lien was filed.

36 (4) Annually by every August 1st until and including August 1, 2023, the Maine
37 State Housing Authority shall review the report issued pursuant to Title 27,
38 section 511, subsection 5, paragraph A to determine the percentage of the total
39 aggregate square feet of completed projects that constitutes new affordable
40 housing, rehabilitated and developed using:

41 (a) Either of the income tax credits under Title 36, section 5219-BB,
42 subsection 2; and

43 (b) The income tax credit increase under Title 36, section 5219-BB,
44 subsection 3.

