



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1121

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H.P. 785

House of Representatives, March 21, 2017

### An Act Regarding the Exclusive Use of Tax Exempt Property

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative KINNEY of Limington. (BY REQUEST)  
Cosponsored by Senator CUSHING of Penobscot and  
Representatives: ORDWAY of Standish, PARRY of Arundel, STETKIS of Canaan,  
TIMBERLAKE of Turner.

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

2 **Sec. 1. 36 MRSA §652, sub-§1, ¶C**, as amended by PL 2007, c. 627, §20, is  
3 further amended to read:

4 C. Further conditions to the right of exemption under paragraphs A and B are that:

5 (1) Any corporation claiming exemption under paragraph A must be organized  
6 and conducted exclusively for benevolent and charitable purposes;

7 (2) A director, trustee, officer or employee of an organization claiming  
8 exemption may not receive directly or indirectly any pecuniary profit from the  
9 operation of that organization, except as reasonable compensation for services in  
10 effecting its purposes or as a proper beneficiary of its strictly benevolent or  
11 charitable purposes;

12 (3) All profits derived from the operation of an organization claiming exemption  
13 and the proceeds from the sale of its property must be devoted exclusively to the  
14 purposes for which it is organized;

15 (4) The institution, organization or corporation claiming exemption under this  
16 section must file with the assessors upon their request a report for its preceding  
17 fiscal year in such detail as the assessors may reasonably require;

18 (5) An exemption may not be allowed under this section in favor of an  
19 agricultural fair association holding pari-mutuel racing meets unless it has  
20 qualified the next preceding year as a recipient of a stipend from the Stipend  
21 Fund provided in Title 7, section 86;

22 (6) An exemption allowed under paragraph A or B for real or personal property  
23 owned and occupied or used to provide federally subsidized residential rental  
24 housing is limited as follows: Federally subsidized residential rental housing  
25 placed in service prior to September 1, 1993 by other than a nonprofit housing  
26 corporation that is acquired on or after September 1, 1993 by a nonprofit housing  
27 corporation and the operation of which is not an unrelated trade or business to  
28 that nonprofit housing corporation is eligible for an exemption limited to 50% of  
29 the municipal assessed value of that property.

30 An exemption granted under this subparagraph must be revoked for any year in  
31 which the owner of the property is no longer a nonprofit housing corporation or  
32 the operation of the residential rental housing is an unrelated trade or business to  
33 that nonprofit housing corporation.

34 (a) For the purposes of this subparagraph, the following terms have the  
35 following meanings.

36 (i) "Federally subsidized residential rental housing" means residential  
37 rental housing that is subsidized through project-based rental assistance,  
38 operating assistance or interest rate subsidies paid or provided by or on  
39 behalf of an agency or department of the Federal Government.

40 (ii) "Nonprofit housing corporation" means a nonprofit corporation  
41 organized in the State that is exempt from tax under Section 501(c)(3) of

1 the Code and has among its corporate purposes the provision of services  
2 to people of low income or the construction, rehabilitation, ownership or  
3 operation of housing.

4 (iii) "Residential rental housing" means one or more buildings, together  
5 with any facilities functionally related and subordinate to the building or  
6 buildings, located on one parcel of land and held in common ownership  
7 prior to the conversion to nonprofit status and containing 9 or more  
8 similarly constructed residential units offered for rental to the general  
9 public for use on other than a transient basis, each of which contains  
10 separate and complete facilities for living, sleeping, eating, cooking and  
11 sanitation.

12 (iv) "Unrelated trade or business" means any trade or business whose  
13 conduct is not substantially related to the exercise or performance by a  
14 nonprofit corporation of the purposes or functions constituting the basis  
15 for exemption under Section 501(c)(3) of the Code.

16 (b) Eligibility of the following property for exemption is not affected by the  
17 provisions of this subparagraph:

18 (i) Property used as a nonprofit nursing home, residential care facility  
19 licensed by the Department of Health and Human Services pursuant to  
20 Title 22, chapter 1663 or a community living arrangement as defined in  
21 Title 30-A, section 4357-A or any property owned by a nonprofit  
22 organization licensed or funded by the Department of Health and Human  
23 Services to provide services to or for the benefit of persons with mental  
24 illness or mental retardation;

25 (ii) Property used for student housing;

26 (iii) Property used for parsonages;

27 (iv) Property that was owned and occupied or used to provide residential  
28 rental housing that qualified for exemption under paragraph A or B prior  
29 to September 1, 1993; or

30 (v) Property exempt from taxation under other provisions of law; ~~and~~

31 (7) In addition to the requirements of subparagraphs (1) to (4), an exemption is  
32 not allowed under paragraph A or B for real or personal property owned and  
33 occupied or used to provide residential rental housing that is transferred or placed  
34 in service on or after September 1, 1993, unless the property is owned by a  
35 nonprofit housing corporation and the operation of the residential rental housing  
36 is not an unrelated trade or business to the nonprofit housing corporation.

37 For the purposes of this subparagraph, the following terms have the following  
38 meanings.

39 (a) "Nonprofit housing corporation" means a nonprofit corporation  
40 organized in the State that is exempt from tax under Section 501(c)(3) of the  
41 Code and has among its corporate purposes the provision of services to

1 people of low income or the construction, rehabilitation, ownership or  
2 operation of housing.

3 (b) "Residential rental housing" means one or more buildings, together with  
4 any facilities functionally related and subordinate to the building or  
5 buildings, containing one or more similarly constructed residential units  
6 offered for rental to the general public for use on other than a transient basis,  
7 each of which contains separate and complete facilities for living, sleeping,  
8 eating, cooking and sanitation.

9 (c) "Unrelated trade or business" means any trade or business whose conduct  
10 is not substantially related to the exercise or performance by a nonprofit  
11 organization of the purposes constituting the basis for exemption under  
12 Section 501(c)(3) of the Code; and

13 (8) The property of the institution, organization or corporation may not be  
14 incidentally used to provide goods, services or materials in exchange for any  
15 amount, type or form of remuneration. For the purpose of this subsection, an  
16 incidental use is a use of the property that is not directly related and necessary to  
17 the purposes of the benevolent and charitable or literary and scientific institution,  
18 organization or corporation.

19 **SUMMARY**

20 This bill amends the exemption from property tax provided to benevolent and  
21 charitable incorporated institutions and to scientific and literary institutions to specify that  
22 the exemption does not apply to property that is used incidentally in the provision of  
23 goods, services or materials in exchange for any type of consideration.