



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1667

H.P. 1137

House of Representatives, March 22, 2016

**An Act To Protect the Tax Base of Municipalities by Removing the
Property Tax Exemption for Land Held for Conservation or Public
Access Purposes**

Reference to the Committee on Taxation suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative STETKIS of Canaan. (GOVERNOR'S BILL)
Cosponsored by Representatives: HANLEY of Pittston, KINNEY of Limington, LONG of
Sherman.

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. For the
7 purposes of this subsection, for property tax years beginning on or after April 1,
8 2017, holding land primarily for conservation purposes or public access purposes
9 is not a benevolent or charitable purpose;

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

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

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

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

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

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

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

39 (i) "Federally subsidized residential rental housing" means residential
40 rental housing that is subsidized through project-based rental assistance,

1 operating assistance or interest rate subsidies paid or provided by or on
2 behalf of an agency or department of the Federal Government.

3 (ii) "Nonprofit housing corporation" means a nonprofit corporation
4 organized in the State that is exempt from tax under Section 501(c)(3) of
5 the Code and has among its corporate purposes the provision of services
6 to people of low income or the construction, rehabilitation, ownership or
7 operation of housing.

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

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

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

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

29 (ii) Property used for student housing;

30 (iii) Property used for parsonages;

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

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

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

41 For the purposes of this subparagraph, the following terms have the following
42 meanings.

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(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

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

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

SUMMARY

This bill addresses the effect of the Maine Supreme Judicial Court decision in *Francis Small Heritage Trust, Inc. v. Town of Limington et al.*, 2014 ME 102, by specifying that holding land primarily for conservation or public access purposes is not a benevolent and charitable purpose, which is a condition necessary to obtaining an exemption from property tax. The change applies to property tax years beginning on or after April 1, 2017.