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TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1180, L.D. 1645, Bill, "An Act To Create Affordable Workforce and Senior Housing and Preserve Affordable Rural Housing"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 30-A MRSA §4722, sub-§1, ¶GG is enacted to read:

GG. In accordance with the credit for affordable housing established in Title 36, section 5219-VV and in accordance with rules adopted under the Maine Administrative Procedure Act:

- (1) Allocate the credit;
(2) Administer and enforce the requirements of the credit; and
(3) Perform other functions and duties necessary for the proper administration of the credit, including providing any necessary certifications and notices to taxpayers and to the Department of Administrative and Financial Services, Bureau of Revenue Services containing information required by the State Tax Assessor necessary for determining eligibility and the amount of the credit for each taxable year.

Rules adopted under this paragraph are routine technical rules.'

Amend the bill in section 3 in paragraph HHH in the last line (page 1, line 26 in L.D.) by inserting after the following: "5219-VV" the following: 'and for purposes of the report required by section 5219-VV, subsection 9'

Amend the bill in section 5 in §5219-VV by striking out all of subsections 2 to 4 (page 2, lines 30 to 41 and page 3, lines 1 to 39 in L.D.) and inserting the following:

'2. Credit allowed. A taxpayer receiving a credit certificate from the authority for the taxable year pursuant to Title 30-A, section 4722, subsection 1, paragraph GG is allowed a credit against the tax imposed under this Part:

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1 A. Equal to the total federal low-income housing tax credit computed using the entire
2 federal credit period as described in Section 42(f) of the Code for all buildings in a
3 qualified Maine project; or

4 B. Equal to 50% of the qualified basis of an affordable housing project that incurs
5 not less than \$100,000 includible in eligible basis as defined in Section 42(d) of the
6 Code in the construction or rehabilitation of an affordable housing project for which a
7 credit is not claimed under Section 42 of the Code with regard to those expenditures,
8 except that not more than \$500,000 in credit may be allocated to taxpayers for a
9 single project under this paragraph.

10 A credit may be allowed for an affordable housing project under paragraph A or B but not
11 both.

12 **3. Maximum credit; carry-forward.** The total credit amount available pursuant to
13 this section and section 2534 to be allocated by the authority for each calendar year
14 beginning on or after January 1, 2021 and ending on or before December 31, 2024 is
15 subject to the following limitations.

16 A. The total allocation may not exceed \$20,000,000. Any portion of that amount not
17 allocated in a calendar year may be carried forward and available to be allocated in
18 subsequent calendar years, except that:

19 (1) Any previously allocated credits returned to the authority, excluding any
20 credits recaptured under subsection 7, must be added to that amount; and

21 (2) The authority may not allocate more than \$25,000,000 in any calendar year.

22 B. No more than 20% of credits allocated in any calendar year may be allocated
23 under subsection 2, paragraph B.

24 C. Ten percent of credits first available to be allocated in any calendar year must be
25 set aside to be allocated for the purpose of qualified rural development preservation
26 projects pursuant to subsection 2, paragraph B. Any portion of the amount under this
27 paragraph not allocated in a calendar year must be carried forward and be available to
28 be allocated in subsequent calendar years for the purpose of qualified rural
29 development preservation projects. To the extent that any amounts set aside under
30 this paragraph are not allocated on or before December 31, 2024, those amounts may
31 be allocated by the authority without regard to whether the project is a qualified rural
32 development preservation project.

33 D. Only those credits that have been carried forward or returned, excluding any
34 credits recaptured under subsection 7, as described in this subsection may be
35 allocated by the authority after December 31, 2024.

36 **4. Timing of allocation by authority and credit.** The authority may not make an
37 allocation of credit to a taxpayer for a project before the date that any portion of the
38 project is placed in service for federal tax purposes. Upon making an allocation of a
39 credit to a taxpayer, the authority shall certify the allocation to the taxpayer and to the
40 bureau. The certification must provide information required by the assessor for
41 determining eligibility and the amount of the credit for each taxable year.

1 A. The entire credit allowed for a project pursuant to this section must be taken in
2 the later of:

3 (1) The first taxable year in which the federal low-income housing tax credit for
4 that project is claimed for projects allocated a credit pursuant to subsection 2,
5 paragraph A; and

6 (2) The first taxable year for which the project has an allocation of credit from
7 the authority.

8 B. Notwithstanding paragraph A, the authority may allocate a credit to a taxpayer for
9 a project for the immediately preceding calendar year if:

10 (1) The project was placed in service for federal tax purposes in the immediately
11 preceding calendar year; and

12 (2) The allocation is made no later than the 60th day of the calendar year
13 following the year in which the project was placed in service.'

14 Amend the bill in section 5 in §5219-VV by striking out all of subsection 6 (page 4,
15 lines 1 to 11 in L.D.) and inserting the following:

16 '**6. Allocation of credit among taxpayers.** Credits allowed to a partnership, a
17 limited liability company taxed as a partnership or multiple owners of a credit-qualified
18 affordable housing project must be passed through to the partners, members or owners
19 respectively pro rata in the same manner as under section 5219-G, subsection 1 or
20 pursuant to an executed written agreement among the partners, members or owners
21 documenting an alternate allocation method. Credits may be allocated to partners,
22 members or owners that are exempt from taxation under the Code, Section 501(c)(3),
23 Section 501(c)(4) or Section 501(c)(6), and those partners, members or owners must be
24 treated as taxpayers for the purposes of this section. Credits allowed under subsection 2,
25 paragraph B may be claimed by an entity that is exempt from taxation under the Code,
26 Section 501(c)(3), Section 501(c)(4) or Section 501(c)(6) and is the owner of the
27 affordable housing. The tax-exempt entity must be treated as a taxpayer for purposes of
28 this section.'

29 Amend the bill in section 5 in §5219-VV in subsection 7 in the 3rd line (page 4, line
30 14 in L.D.) by inserting after the following: "section." the following: 'The authority shall
31 administer this subsection.'

32 Amend the bill in section 5 in §5219-VV in subsection 8 in paragraph B in the last 2
33 lines (page 5, lines 29 and 30 in L.D.) by striking out the following: "Section 520 of the
34 federal Housing Act of 1949, as amended" and inserting the following: 'the authority in
35 rules adopted under Title 30-A, section 4722, subsection 1, paragraph GG'

36 Amend the bill in section 5 in §5219-VV by striking out all of subsection 9 (page 5,
37 lines 33 to 35 in L.D.)

38 Amend the bill in section 5 in §5219-VV in subsection 11 in the last paragraph in the
39 3rd to 7th lines (page 6, lines 25 to 29 in L.D.) by striking out the following: "by
40 February 1, 2024. Following receipt of the report, the joint standing committee shall
41 determine whether the credit provided under this section is meeting its public policy
42 objectives and whether it should be continued. The joint standing committee may submit

1 a bill to the Second Regular Session of the 131st Legislature to accomplish its
2 recommendations"

3 Amend the bill in section 5 in §5219-VV by renumbering the subsections to read
4 consecutively.

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
6 section number to read consecutively.

7 **SUMMARY**

8 This amendment makes several changes to the procedure for administration of the
9 credit for affordable housing to appropriately reflect the most effective responsibilities of
10 the Maine State Housing Authority and the Department of Administrative and Financial
11 Services, Maine Revenue Services and requires the authority to adopt routine technical
12 rules necessary for administration of the credit. The amendment also removes the date
13 for a report by the Office of Program Evaluation and Government Accountability.

14 **FISCAL NOTE REQUIRED**

15 **(See attached)**