



Testimony of Frank O'Hara

In Support of LD 1493 An Act to Increase Affordable Housing by Expanding Tax Increment Financing

Committee on Taxation

April 26, 2023

Senator Grohoski, Representative Perry Members of the Committee on Taxation:

My name is Frank O'Hara. I am a long-time housing and community development planner in Maine, and a resident of Hallowell. I am also currently the Chair of the MaineHousing board; however, I am here today in my capacity as a private citizen, and am not speaking for the organization.

Everyone in the Legislature is aware that a shortage of affordable housing is jeopardizing the future of our state. Businesses can't attract employees. Young families can't buy a first home. Homeless people can't find a roof over their heads.

In the Legislature this year, it's all hands on deck to address the issue. Some committees are considering bond issues; some new General Fund revenues; and some reforms of zoning practices.

This bill proposes the expanded use of Tax Increment Financing funds. This is one more tool for the municipal toolbox. TIFs can put money into affordable housing to supplement federal funds, or simply as a stand-alone, to help promote workforce or moderate-income housing. It costs nothing to the General Fund. It allows municipalities to make their own choices about whether and how to invest in new housing.

For these reasons I support LD 1493. But I also recommend the Taxation Committee go further. Attached is a white paper recommending four reforms to the Maine Affordable Housing TIF law that would expand its use dramatically. The changes would simplify the district requirements; simplify reporting; liberalize the length of the designation; and eliminate acreage requirements. I am glad to meet with the Committee in work session to describe these reforms further. Thank you.



A Proposal for Expanding the Use of the Maine Affordable Housing Tax Increment Financing (TIF) Program To Build Moderate-income Workforce Housing

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Summary

The following is a proposal to expand the potential use of Maine's Affordable Housing Tax Increment Financing Program to build moderate-income workforce housing serving those with incomes up to 120% of the area median, without any other public subsidies involved. This would meet a need currently not addressed in state programs in a way which allows maximum municipal control, and has no impact on the state general fund budget.

The Need for Moderate-income workforce housing

1. The national *Up for Growth* organization estimates that Maine had a production gap of 9,000 units in the most recent year it measured (2019). A production gap is identified as the difference between households and a healthy vacancy rate (5.0%) and the level of decent, year-round housing available.¹ Note that this calculation was made before the pandemic, during which time there has been a net in-migration to Maine.
2. The Maine State Chamber and Maine Development Foundation have identified the production of workforce housing as one of its top 6 goals for 2022.² The report states:
Affordable housing is a workforce issue for each segment of the market, not just "affordable" or "low-income" as defined historically in government programs... It is an issue that particularly affects entry-level workers, which ranked highly on the business leader survey, but it also affects middle-class workers such as those at BIW, as well as professional and technical employees at hospitals, banks, and law firm.
3. In the last four years, MaineHousing has produced about 300 affordable rental units per year. This is a record level for the organization. However, it is well short of the need. Because rental production relies largely on federal tax subsidies, this level is unlikely to increase significantly in the years ahead.

¹ Housing Underproduction in the U.S. 2022, Up For Growth. <https://upforgrowth.org/apply-the-vision/housing-underproduction/>

² See file:///C:/Users/Owner/Downloads/mmhw2022-web%20(1).pdf



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aineHousing does not finance rental workforce housing for households in the middle income ranges, the kind of housing the Chamber is looking for. However, such middle-class workforce housing does benefit lower income households indirectly. When a household moves to a newly-built unit, it frees up a vacant unit that is then occupied by another household moving up, which in turn may allow another household to move up. The exact upgrading effect differs in different market conditions, but a recent study estimated that “100 new market-rate units create 70 equivalent units in neighborhoods with household incomes below the metro area median, and 39 in neighborhoods with household incomes from the bottom fifth.”³

5. Besides Maine businesses, Maine municipalities are also seeking to address affordable housing. The level of concern and interest is beyond anything I have experienced in my 40 years of planning in Maine. According to Kate Dufour, the Maine Municipal Association Director of Advocacy and Communications, MMA is looking to the Legislature to increase the tools available to address housing at the local level⁴. Specifically, Kate writes that MMA wants to:
.. broaden the authorities found under the tax increment financing laws to accelerate the development and availability of affordable housing throughout communities. Additionally, the policy committee is proposing the implementation of a Pine Tree Housing Zone, designed to provide private sector developers the economic incentives necessary to build workforce housing.

The Potential Tool: Maine Affordable Housing Tax Increment Financing.

The Maine Affordable Housing Tax Increment Financing program is a tool with the potential to serve the gap of providing an incentive to build workforce housing. The program has these advantages:

1. The law exists already in Maine and is well administered.⁵
2. Municipalities are comfortable with tax increment financing in economic development, so applying it to housing is an easy step. MMA’s endorsement of expanding the law is an indication of that comfort.
3. Like the economic development TIF law, the housing TIF allows the creation of districts that are larger than individual projects and properties (though for reasons described below, few such districts are created).

³ Evan Mast, “The Effect of New Market-Rate Housing Construction on the Low-Income Housing Market”, 2019, [file:///C:/Users/Owner/Downloads/The%20Effect%20of%20New%20Market-Rate%20Housing%20Construction%20on%20the%20Low-Inc%20\(1\).pdf](file:///C:/Users/Owner/Downloads/The%20Effect%20of%20New%20Market-Rate%20Housing%20Construction%20on%20the%20Low-Inc%20(1).pdf)

⁴ Kate Dufour, “Supporting State Policy Priorities Via Collaboration,” Maine Town & City, December 2022.

⁵ The law is contained in MRSA Title 30-A, §5245-5250-G, found online at <https://legislature.maine.gov/statutes/30-A/title30-Asec5247-1.html>



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ax increment financing does not place a direct cost on state government, and does not show up in the annual budget. It basically involves a shifting of revenues within and among state, county, and local governments.

5. The program serves households with up to 120% of area median income, and thus is eligible to serve middle and moderate income households.
6. It will take less subsidy cost per unit to create apartments and homes affordable to moderate income households, as compared to the level of subsidy required to build an apartment for a very low income tenant.

Current Use

1. The Maine Affordable Housing Tax Increment Financing program is currently being primarily used to provide supplemental subsidies to Low-Income Housing Tax Credit rental projects. These projects serve predominantly renters of low income (at or below 60% of area median income). The “districts,” in these cases, are simply the lot lines for the individual projects. In the last 4 years there have been 36 projects approved – a rate of about 9 per year.

These supplemental subsidies are important to making individual projects feasible and should continue. But the potential for use is much greater.

Obstacles to Expansion

1. The creation of a district requires specialized attorneys, consultants, municipal hearings, municipal approval, and MaineHousing approval. The process takes months and costs \$5,000 or more. It is not practical for any project under 25-30 units.⁶
2. In Maine’s economic development TIF law, it is possible to create an umbrella downtown district within which individual building owners and developers can benefit without each having to individually create a new state-approved districts. In these cases, the municipality undergoes the expense of creating the district and obtaining state approval; the developers and owners can then participate in the benefits by simply negotiating with the municipal government. For these districts, small businesses and owners of only a few units can participate in TIF benefits just like larger developers.

Theoretically, such area-wide districts are possible under the Affordable Housing TIF law. But practically, the requirements are so burdensome that only one or two municipalities have tried to do it. The problematic district requirements include:

⁶ Application and monitoring forms found on line at <https://www.mainehousing.org/programs-services/housing-development/developmentdetails/affordable-housing-tax-increment-financing-program>



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he proposed district must be an area within which at least 33% of the residential units are affordable.

- b. The municipality must be able to guarantee that at least 33% of the units will remain affordable for the next 30 years (for rental housing) or 10 years (for owner housing), and identify a mechanism for monitoring progress annually.

In short, to create a district that goes beyond a single development lot, the municipality must survey other apartment landlords and homeowners in the proposed area, determine how many homes or apartments are priced at affordable levels, and then obtain agreements with owners and landlords representing 33% of all units in the district to maintain their units to be affordable for 10-30 years. These agreements would be needed even if the owners and landlords are not benefitting from the immediate TIF program. Finally, the municipality must create a mechanism to monitor the affordability of all units annually in the district for the 10 to 30 year period.

3. In housing TIF zones – as in economic development TIF zones – the period of TIF subsidy cannot exceed the time limit for the district. Districts are usually approved for 30 years. If a project starts 10 years into the district’s life, then the subsidy can only extend for 20 years; in the last 10 years of a district’s life, annual subsidies can only continue for 10 years. This is a problem in both housing and economic development districts, but it is a particular issue when a financier is looking for protection during the 30-year life of the mortgage, and the subsidy cannot be arranged to match the mortgage life.
4. The subsidy from TIF revenues for an individual lot (i.e., a portion of expected property tax payments) is not sufficient to make a significant dent in property maintenance costs, in the absence of other subsidies. If the property tax increment can be captured from a larger neighborhood, then the subsidy could make a difference; this only reaffirms the importance of making neighborhood TIF zones possible.

Goal of proposal

To amend the Maine Affordable Housing TIF law to enable affordable housing districts to be created that are as easy to administer as downtown TIF’s are under the Maine economic development TIF law.

Proposed law changes

1. ***Simplify district eligibility requirements.*** The district should be simply:
 - a. An area designated as a residential growth zone in a local comprehensive plan that is approved by the state government.
 - b. In a community that has land use regulatory ordinances (zoning, etc.) that are in compliance with state affordable housing zoning requirements.

There is no reason to restrict affordable housing developments to areas that already have a substantial amount of low-moderate income residents. Research is very clear on this – lower



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e children have the highest chance to succeed in life when they live in neighborhoods with families of higher incomes.⁷ There is no reason to limit affordable housing to neighborhoods like Tree Street in Lewiston or Sand Hill in Augusta, while providing no incentive for affordable housing in towns like Cumberland or Camden. The current requirements are not just a burden for applicants to document; they are contradictory to good public policy.

2. ***Simplify monitoring requirements.*** Likewise, there is no need to require that entire districts have a certain percentage of affordable housing. Only projects that receive a subsidy should be required to maintain affordability for 10 years (owner) or 30 years (rental), as is currently the case. This will simplify monitoring requirements for municipalities. And again, it is good public policy; children with lower income backgrounds benefit from living in a neighborhood with higher-income families.
3. ***At the lapsing of a TIF district (either housing or economic development), allow existing eligible projects to continue receiving benefits for the remaining years of their deals.*** Currently TIF districts become less attractive over time; a district with only 8 years of eligibility remaining can only issue benefits for 8 years. The law should be changed to allow a developer to still gain up to a 30-year benefit (if needed) -- but only for property tax revenues from the developer's parcel, not from the district as a whole. This might be combined with shortening the district life from 30 to 10 years, while allowing renewals. Once the district lapses, of course, no new developers can enter the program.
4. ***Exempt area-wide housing TIFs from the municipal acreage limitations.*** This is the same treatment that is given to downtown TIF districts.

In other respects, the district requirements for uses of funds, income eligibility, planning, etc., would remain the same.

The net effect might be that dozens of municipalities around Maine could create affordable housing districts and promote housing affordable not just to low-income but to middle-income families. It would encourage local creativity in addressing Maine's housing crisis.

⁷ "Groundbreaking Studies: Good Neighborhoods Help Low-Income Children Succeed," Douglas Rice, May 4, 2015 – see <https://www.cbpp.org/blog/groundbreaking-studies-good-neighborhoods-help-low-income-children-succeed>