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HOUSE OF REPRESENTATIVES

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TESTIMONY BEFORE THE TAXATION COMMITTEE

**An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences
L.D. 1337**

April 14, 2021

Senator Chipman, Representative Terry, and Members of the Joint Standing Committee on Taxation:

My name is Chris Kessler, and I represent House District 32, which is a part of South Portland and part of Cape Elizabeth. I am here to introduce LD 1337 on the following premise: we are in the midst of a housing crisis, and we must do everything within our power to fix it.

According to the US Census Bureau, Maine has [the largest percentage of vacant homes in the country](#) at 19%; nearly 140,000 residences are not occupied year-round. Inventory of homes is tight while demand is soaring. [At least 1 out of every 4 buyers are from out-of-state](#), in many instances paying \$50,000 above asking price, in cash. [These factors, in part, have caused median home sale prices to increase 20% over last year](#), and are expected to rise even more. [A majority of Maine households can no longer afford the median home price based on their current income](#). Tens of thousands of households are on waiting lists for subsidized housing and housing vouchers. Municipal property revaluations are resulting in a significant tax shift onto residents due to the current housing market, as commercial real estate values remain steady or are declining due to the pandemic while residential prices are soaring.

This policy seeks to encourage owners of vacant homes to put those homes to use for housing, raise revenue to fund existing housing programs, and stabilize property taxes for Maine residents. 50% of revenue would be directed to the HOME Fund, which was created in 1982 to provide Maine Housing with a flexible financial resource to address the state's affordable housing needs. The fund helps to subsidize the construction of affordable housing, homeless assistance, home buyer and homeowner assistance, and home improvements like repairs, aging-in-place and supportive housing repair. The other 50% of revenue would be directed to the Local Government Fund to be used to reimburse municipalities for the Maine residents homestead property tax exemption. This is important to help stabilize property tax increases for those who are negatively impacted by the sharp increase in residential real estate prices and pending tax revaluations that will drastically shift the property tax burden to residential properties.

The vast majority of Maine residents will not have to pay the vacancy impact fee, including snowbirds, people on fixed incomes or people with truly seasonal camps. Owners are subject to the fee only if:

1. The unit is not registered as a primary residence for the owner or a tenant
2. It has been unoccupied for more than 180 days cumulatively

[District 32: South Portland \(part\) and Cape Elizabeth \(part\)](#)



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3. It does not qualify for an exemption as provided for in the legislation

The fee is half of 1% of the assessed value of the residential building, **which excludes the land value**. For example, if the building is valued at \$150,000, the fee would be \$750 annually ($150,000 \times 0.005$). There are exemptions to assist those with the least ability to pay by excluding anyone who is a recipient of any federal or state public assistance program based on income, and another exemption is aimed to give relief to residents who have paid income taxes in Maine. Residents who earned less than 150% of the area median income based on the most recent data from the United States Census for the Portland-South Portland metropolitan area would be exempt. Based on 2020 data, the income thresholds are as follows:

Household Size						
AMI	1	2	3	4	5	6
100%	\$70,630	\$80,720	\$90,810	\$100,900	108,972	\$117,044
150%	\$105,945	\$121,080	\$136,215	\$151,350	\$163,458	\$175,566

With regard to implementation, municipalities would only be responsible for notifying owners of the fee, and to provide the State Tax Assessor a list of the residential properties, their owners and their valuation within that municipality during the previous fee year. This is also a new opportunity for Maine residents to be informed about and apply for the Homestead Exemption when notified by their city or town about the fee. Even though it is available to all Maine residents, many people don't know about it and uptake varies depending on the town.

This type of policy has been successfully implemented in the United States and Canada. The most notable use of the policy is by the City of Vancouver, BC who implemented an [Empty Homes Tax](#), and subsequently the Province of British Columbia with their [Speculation & Vacancy Tax](#). These were put in place to address the drastic rise in home and rental prices, high vacancy rates, and possible real estate speculation by foreign investors. [Recent data from British Columbia shows](#) that the policy is working to increase the number of rental units available, as well as funding for affordable housing projects, even though 99.9% of British Columbians aren't subject to the tax. Cities in the United States like [Oakland, CA](#) and [Washington, D.C.](#) have also implemented their own versions of the policy.

In order to ensure the policy will work as intended, there are provisions built into the legislation which provide for analysis by the State Tax Assessor, State Treasurer, MaineHousing, and the Office of Program Evaluation and Government Accountability.

Finally, I would like to address the issue of constitutionality. Opponents of this policy frequently cite Article IX, Section 8. Taxation, which states, "All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof."



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This impact fee is not a property tax; it is an **excise tax** based on the **specific use of a residential structure for non-residential purposes**. Therefore, it should not be subject to Article IX, Section 8 of the Maine Constitution. Much like the vehicle excise tax is levied annually for the privilege of operating a motor vehicle or camper trailer on the public ways, this vacancy impact fee would be levied for the privilege of owning a vacant home that could otherwise be used as a permanent residence in the midst of a housing shortage. Arguably, the housing shortage is a significant driving factor in housing prices, which is the cause of a range of problems for individuals, families, businesses and municipal governments that require State intervention.

In addition, Article IX, Section 9. Power of taxation states, "The Legislature shall never, in any manner, suspend or surrender the power of taxation." Where there is the political will to implement a policy, it is within the Legislature's constitutional right to do so.

The people of Maine are looking to us to do something substantial and immediately to address the housing crisis. This policy would be an effective tool in the toolbox to address a multitude of housing affordability issues.

Thank you for your time and consideration.