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An Act To Enable Municipalities To Establish Municipal Land Banks Funded by Local Option Real Estate Transfer Taxes

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

Sec. 1. 30-A MRSA c. 157, sub-c. 6 is enacted to read:

SUBCHAPTER 6

MUNICIPAL LAND BANKS

§ 3301. Establishment of municipal land bank

A municipality may establish a municipal land bank in accordance with this section.

1. Referendum required. A municipal land bank may be established under this section only with approval by a referendum vote conducted in accordance with section 2528. Once established, a referendum vote conducted in a similar manner is required to alter or repeal provisions pertaining to the land bank. The municipal land bank may be approved as a separate measure or as part of a referendum adopting a municipal real estate transfer tax under Title 36, section 4661.

2. Land bank account. A municipality establishing a municipal land bank under this section shall maintain a separate account to receive all tax revenue collected under Title 36, section 4662, subsection 3. A municipality may accept money from other public and private sources for deposit in the municipal land bank account. Interest accrued by money deposited into the account must be credited to the account. All deposits into the municipal land bank account may be used only for the purposes permitted under this subchapter.

3. Advisory board. A municipality that has established a municipal land bank under this section shall create an advisory board, in accordance with this Title, to review and make recommendations on proposed acquisitions using money from the land bank account.

4. Use of funds. Funds in a municipal land bank account established pursuant to subsection 2 are restricted to the following uses:

A. Acquiring interest in or managing land within the municipality for the purposes of:

(1) Conserving land or maritime resources;

(2) Maintaining or improving opportunities for recreation and environmental education within the municipality; and

(3) Protecting the physical, historical, social or economic character of the community, including working waterfront; and

B. Any other purposes that are incidental to the purposes permitted under paragraph A, including administrative and land maintenance costs.

A municipality may not acquire interest in land under this subchapter for purposes that are inconsistent with goals established in that municipality's comprehensive plan as defined in section 4301, subsection 3.

5. Public hearing required. Interests or rights in real property may not be acquired under this subchapter until a public hearing is held and budget authority approved pursuant to this Title. A municipality may enter into a conditional purchase agreement prior to a public hearing and budget approval.

6. Termination. Upon dissolution of a municipal land bank established under this section, any remaining money in the municipal land bank account established pursuant to subsection 2 must be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purposes of this subchapter.

Sec. 2. 36 MRSA c. 712-A is enacted to read:

CHAPTER 712-A

MUNICIPAL REAL ESTATE TRANSFER TAX

§ 4661. Adoption of municipal real estate transfer tax

A municipality that has approved the establishment of a municipal land bank pursuant to Title 30-A, chapter 157, subchapter 6 may impose a municipal real estate transfer tax on a transferee of real estate according to the procedure and limitations of this chapter.

1. Referendum required. A municipality may impose a municipal real estate transfer tax if such a tax is approved by a referendum vote conducted in accordance with Title 30-A, section 2528. The tax may subsequently be amended or repealed by a referendum vote conducted in the same manner.

2. Rate of tax. The referendum question under subsection 1 must specify the proposed transfer tax rate, which may not exceed 1.5% of the taxable base of the property subject to the tax.

3. Liability. A transferee of real property is liable for payment of the municipal real estate transfer tax.

4. Information. A transferee of real property must provide the following information to the municipality:

A. A copy of the deed or other instrument evidencing the transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the transferee or the transferee's legal representative attesting to the true and complete purchase price; or

B. The basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the municipal real estate transfer tax.

§ 4662. Determination and collection of tax

1. Taxable base. The base to which the municipal real estate transfer tax under this chapter applies is the declared value of the property under section 4641-D except that, if the property subject to the tax is the primary residence of the transferee, an amount not less than \$50,000 must be subtracted from the base. An amount more than \$50,000 may be subtracted by a municipality if the larger amount is specified in the referendum question posed pursuant to section 4661, subsection 1.

2. Exemptions. The following transfers are not subject to a municipal real estate transfer tax:

A. A transfer that is exempt from the state real estate transfer tax under section 4641-C;

B. A transfer in which the transferee is a resident of the municipality and is acquiring a property to be used as the transferee's primary residence within that same municipality;

C. A transfer in which the transferee has not previously held an interest in a principal residence; and

D. A transfer in which the property acquired is contiguous to the transferee's primary residence or place of business for the purpose of enlarging that property for the transferee's occupancy or existing business activities.

3. Collection and deposit. A municipal real estate transfer tax imposed under this chapter must be paid to the tax collector in the municipality in which the real estate is located.

Payment of the municipal real estate transfer tax is due no later than the date established by chapter 711-A for payment of the state real estate transfer tax.

The municipal tax collector shall deposit all revenue received from the municipal real estate transfer tax in the municipal land bank account in accordance with Title 30-A, chapter 157, subchapter 6.

4. Municipal authority. A municipality may adopt provisions necessary for the proper administration of a real estate transfer tax, including provisions concerning the determination of the tax, the imposition of interest on payments and the penalties for failing to comply with the tax provisions. To the extent possible, provisions to administer this chapter must be identical to corresponding provisions in chapter 711-A. The municipality may, when necessary, secure payment of the tax and any related penalties or interest in accordance with section 552.

SUMMARY

This bill authorizes municipalities to impose a municipal real estate transfer tax and a land bank program. Approval for both the tax and the land bank must be obtained by referendum. This bill places restrictions on the tax rate and uses of the tax.