An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences

Reference to the Committee on Taxation suggested and ordered printed.

Presented by Representative KESSLER of South Portland.  
Cosponsored by Senator CHIPMAN of Cumberland and Representatives: BRENNAN of Portland, CLOUTIER of Lewiston, GERE of Kennebunkport, HYMANSON of York, MORALES of South Portland, OSHER of Orono, STOVER of Boothbay.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §507, sub-§5 is enacted to read:

5. Residential property. The municipality shall include with each bill that applies to residential property, as defined in section 4961, subsection 5, a notice prepared by the State Tax Assessor regarding the residential vacancy impact fee under chapter 727. The State Tax Assessor shall prepare and furnish to the assessor of each municipality a sufficient number of notices to be included with bills as required by this subsection or a digital copy of the notice to be reproduced by the municipality. The notice must be no more than one page in length, consist of the declaration required under section 4963, describe the property to which the residential vacancy impact fee applies and include information regarding the process for obtaining further information from the State Tax Assessor and for paying the impact fee. The notice must also give the property owner the ability to apply for the Maine resident homestead property tax exemption under subchapter 4-B.

Sec. 2. 36 MRSA c. 727 is enacted to read:

CHAPTER 727

RESIDENTIAL VACANCY IMPACT FEE

§4961. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Fee year. "Fee year" means the 12-month period to which the fee under this chapter applies as defined by the State Tax Assessor under section 4963, subsection 7.

2. Impact fee. "Impact fee" means the residential vacancy impact fee imposed pursuant to section 4962.

3. Owner. "Owner" means a person who owns residential property.

4. Permanent residence. "Permanent residence" has the same meaning as in section 681, subsection 3.

5. Residential property. "Residential property" means a structure or portion of a structure that is designed to be used as a permanent residence. "Residential property" does not include the land on which the structure is located.

6. Vacant. "Vacant" means property that has not been occupied by a permanent resident, as defined under section 681, subsection 4, for at least 180 days cumulatively during the calendar year preceding the date by which a declaration must be filed under section 4963, subsection 2.

§4962. Residential vacancy impact fee imposed

For fee years beginning in or after 2021, a residential vacancy impact fee is imposed annually on owners of residential property that is vacant at the rate of 0.5% of the equalized assessed value of the residential property.
A cooperative housing corporation that is the owner of residential property is subject to the impact fee under this chapter based on the portion of the property owned by the corporation that is not occupied by permanent residents. The impact fee is calculated based on the value of units of residential property in the cooperative property that are not occupied by permanent residents.

§4963. Administration

1. Information from municipalities. Each municipal assessor shall provide the State Tax Assessor, with the assessor's annual return under section 383, subsection 3, a list of each residential property within the municipality during the previous fee year including the valuation of the residential property and the mailing address of the owner and any other information required by the State Tax Assessor to administer this chapter.

2. Information from residential property owners. Each owner of residential property shall file an annual declaration with the State Tax Assessor for each unit of residential property owned indicating whether during the fee year the unit was:
   A. The permanent residence of the owner;
   B. The permanent residence of another person; or
   C. Not a permanent residence.

If a residential property contains more than one unit that is a permanent residence, the owner shall provide the information required under paragraphs A to C for each unit in the property.

3. Notification of potential impact fee responsibility. At least 90 days before the date that impact fees under this chapter are due, the State Tax Assessor shall notify each owner identified on lists provided by municipalities under subsection 1 that the owner may be required to pay the fee assessed under this chapter.

If, by the date that impact fees are due under this chapter, the owner provides information to the State Tax Assessor that satisfies the assessor that the owner is not subject to the fee, no fee is due under this chapter. If the owner does not provide any information or the information provided does not satisfy the assessor that the owner is not subject to the fee, the owner is required to pay the fee, although the State Tax Assessor must first, before imposing the impact fee, exhaust any means by which information can be verified using already available information.

4. Exemptions. The following owners are exempt from the fee imposed under this chapter:
   A. The owner of residential property that is exempt from property tax under sections 651 and 652 is exempt from the impact fee under this chapter;
   B. The owner of residential property that changed ownership during a year to which the fee applies, including a change due to the death of an owner;
   C. The owner of residential property who demonstrates to the satisfaction of the State Tax Assessor that the property is not habitable for at least 3 months during the fee year, including, but not limited to, a seasonal camp or property that is affected by natural disaster or environmental hazard;
D. The owner of residential property who is a recipient of any federal or state public assistance program based on income;

E. The owner of residential property who, based on the owner's most recent Maine income tax filing, has 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;

F. The owner of residential property that is in active development or construction during the fee year;

G. The owner of residential property where a licensed day care for children operates; and

H. The owner of residential property that is held in a trust established by a deceased parent or guardian for the benefit of a minor child.

5. Due date. The impact fee due under this chapter must be paid by July 1st following the fee year for which the fee is imposed.

6. Appeal. An owner who disagrees with a determination by the State Tax Assessor under this chapter may appeal under the provisions of chapter 7.

7. Schedule. The State Tax Assessor shall by rule establish a schedule for the filing of information and other processes necessary for administration of the impact fee under this chapter. Rules under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

8. Application of revenue. The Treasurer of State, following reduction of the cost of administering this chapter, including the cost of reimbursing municipalities for state-mandated costs under Title 30-A, section 5685 shall deposit:

A. Fifty percent of impact fee revenue collected under this chapter to the Housing Opportunities for Maine Fund created in Title 30-A, section 4853, to be used to fund affordable housing activities; and

B. Fifty percent of the impact fee revenue collected under this chapter to the Local Government Fund created in Title 30-A, section 5681, subsection 3 to be used to reimburse municipalities for a portion of the cost of the Maine resident homestead property tax exemption under chapter 105, subchapter 4-B.

§4964. Annual reporting; evaluation

1. Annual reports. The following reports are required on or before March 15th of each year:

A. The State Tax Assessor shall file a report with the Office of Program Evaluation and Government Accountability for the immediately preceding calendar year, referred to in this subsection as "the report year," that contains the following information:

(1) The total number for the State of owners of residential property that is subject to the impact fee under this chapter for the report year and the total for each municipality where residential property is located;

(2) The total amount of impact fee revenue received for the report year and the total for each municipality where residential property is located; and
(3) The amount of impact fee revenue transferred to the Housing Opportunities for Maine Fund and to the Local Government Fund;

B. The Maine State Housing Authority shall file a report with the Office of Program Evaluation and Government Accountability the expenditures of impact fee revenue during the preceding calendar year by the Housing Opportunities for Maine Fund created in Title 30-A, section 4853 for activities to fund affordable housing, the extent to which affordable housing has increased as a result of the impact fee revenue and the location by municipality of affordable housing that has received funding under this chapter during the calendar year; and

C. The Treasurer of State shall file a report with the Office of Program Evaluation and Government Accountability providing the amount of impact fee revenue distributed to municipalities as reimbursement for the Maine resident homestead property tax exemption under chapter 105, subchapter 4-B.

2. Evaluation; specific public policy objective; performance measures. The impact fee established by this chapter is subject to ongoing legislative review in the same manner as a tax expenditure under Title 3, chapter 37. In developing evaluation parameters to perform the review, the Office of Program Evaluation and Government Accountability, the Legislature's government oversight committee and the joint standing committee of the Legislature having jurisdiction over taxation matters shall consider:

A. That the specific public policy objective of the impact fee is to increase the program activity of the Housing Opportunities for Maine Fund created in Title 30-A, section 4853 and to increase municipal revenue to reimburse municipalities for revenue lost as a result of the Maine resident homestead property tax exemption under chapter 105, subchapter 4-B and the availability of affordable housing in the State;

B. Performance measures that include the extent to which affordable housing has increased as a result of the impact fee; and

C. An analysis of impacts on municipal revenue due to increases in the Maine resident homestead property tax exemption under chapter 105, subchapter 4-B compared to impact fee revenue received by municipalities from the Local Government Fund under Title 30-A, section 5681, subsection 3.

The Office of Program Evaluation and Government Accountability shall provide a report of its evaluation of the impact fee established by this chapter in accordance with Title 3, section 999.

Sec. 3. Analysis; report. By the December 1st following the first full year after imposition of the residential vacancy impact fee under the Maine Revised Statutes, Title 36, chapter 727, the State Tax Assessor shall analyze the implementation, collection and enforcement of the residential vacancy impact fee and submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters identifying the amount of impact fee revenue collected and distributed, the degree of compliance with the payment of the fee and any difficulties encountered in implementation, collection and enforcement of the fee, including any recommendations for legislative changes. The committee may submit a bill to the next regular session of the Legislature related to the report.
SUMMARY

This bill creates a residential vacancy impact fee for certain vacant residential property. The revenue from the impact fee is distributed to the Housing Opportunities for Maine Fund to be used to fund affordable housing activities and to the Local Government Fund to be used to reimburse municipalities for the Maine residents homestead property tax exemption. The bill also requires the impact fee to be evaluated by the Office of Program Evaluation and Government Accountability in the same manner as are tax expenditures.