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Legislative Document

No. 1337

H.P. 988

House of Representatives, March 30, 2021

**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.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

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.

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

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

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

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

15 **CHAPTER 727**

16 **RESIDENTIAL VACANCY IMPACT FEE**

17 **§4961. Definitions**

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

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

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

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

25 **4. Permanent residence.** "Permanent residence" has the same meaning as in section
26 681, subsection 3.

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

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

34 **§4962. Residential vacancy impact fee imposed**

35 For fee years beginning in or after 2021, a residential vacancy impact fee is imposed
36 annually on owners of residential property that is vacant at the rate of 0.5% of the equalized
37 assessed value of the residential property.

1 A cooperative housing corporation that is the owner of residential property is subject
2 to the impact fee under this chapter based on the portion of the property owned by the
3 corporation that is not occupied by permanent residents. The impact fee is calculated based
4 on the value of units of residential property in the cooperative property that are not occupied
5 by permanent residents.

6 **§4963. Administration**

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

12 **2. Information from residential property owners.** Each owner of residential
13 property shall file an annual declaration with the State Tax Assessor for each unit of
14 residential property owned indicating whether during the fee year the unit was:

- 15 A. The permanent residence of the owner;
16 B. The permanent residence of another person; or
17 C. Not a permanent residence.

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

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

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

32 **4. Exemptions.** The following owners are exempt from the fee imposed under this
33 chapter:

- 34 A. The owner of residential property that is exempt from property tax under sections
35 651 and 652 is exempt from the impact fee under this chapter;
36 B. The owner of residential property that changed ownership during a year to which
37 the fee applies, including a change due to the death of an owner;
38 C. The owner of residential property who demonstrates to the satisfaction of the State
39 Tax Assessor that the property is not habitable for at least 3 months during the fee year,
40 including, but not limited to, a seasonal camp or property that is affected by natural
41 disaster or environmental hazard;

1 D. The owner of residential property who is a recipient of any federal or state public
2 assistance program based on income;

3 E. The owner of residential property who, based on the owner's most recent Maine
4 income tax filing, has earned less than 150% of the area median income based on the
5 most recent data from the United States Census for the Portland-South Portland
6 metropolitan area;

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

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

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

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

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

17 **7. Schedule.** The State Tax Assessor shall by rule establish a schedule for the filing of
18 information and other processes necessary for administration of the impact fee under this
19 chapter. Rules under this subsection are major substantive rules pursuant to Title 5, chapter
20 375, subchapter 2-A.

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

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

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

31 **§4964. Annual reporting; evaluation**

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

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

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

40 (2) The total amount of impact fee revenue received for the report year and the
41 total for each municipality where residential property is located; and

1 (3) The amount of impact fee revenue transferred to the Housing Opportunities
2 for Maine Fund and to the Local Government Fund;

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

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

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

20 A. That the specific public policy objective of the impact fee is to increase the program
21 activity of the Housing Opportunities for Maine Fund created in Title 30-A, section
22 4853 and to increase municipal revenue to reimburse municipalities for revenue lost as
23 a result of the Maine resident homestead property tax exemption under chapter 105,
24 subchapter 4-B and the availability of affordable housing in the State;

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

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

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

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

SUMMARY

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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.