



# LEGISLATIVE BULLETIN

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## Fix to Stabilization Bill Advances

Provided the proposal receives support from the Legislature, a much-needed fix to the Property Tax Stabilization program cleared an important hurdle this week as the Taxation Committee voted along party lines to support two amended versions of LD 130, *An Act to Eliminate Senior Citizen Property Tax Stabilization and Expand the Homestead Property Tax Exemption*, sponsored by Sen. Richard Bennett of Oxford County.

The stabilization program, enacted without much debate or assessment of impacts at the tail end of the 2022 legislative session, enables homeowners who are at least 65 years of age to stabilize future tax payments, provided the homeowner applies for the benefit annually and has owned a home in Maine for at least 10 years, not necessarily consecutively. While the law requires the state to reimburse municipalities for 100% of the lost property tax revenue and to reimburse communities for the cost associated with implementing the program, the program has exponentially increased and complicated the workloads of municipal assessors, finance directors, tax collectors, and treasurers. None of whom requested or advocated for passage of the law.

As printed, LD 130 proposed to repeal the stabilization law and replace it with a \$75,000 homestead extended to qualifying senior homeowners.

**Majority Report.** However, the version of the bill being advanced by a majority of the committee sunsets the current stabilization program after the April 1, 2023 tax year, and in its place, advances amendments to the state funded and administered Senior Property Tax Deferral program and Property Tax Fairness Credit (PTFC) income tax-based program to provide more targeted relief to both Maine homeowners and renters.

Under the terms of the existing senior deferral program, the state places a non-foreclosing lien on the property owned by an eligible applicant, pays the taxes owed to the municipality, and recoups costs plus interest once the homeowner is no longer eligible for enrollment in the program and the home is sold. As proposed in the majority report, the amendment increases the income limit from \$40,000 to \$80,000; increases

the liquid asset limit from \$50,000 to \$100,000; and allows taxpayers who are no more than 18 months behind in the payment of property taxes to participate in the program. The cost to the state is projected to be \$1.5 million in FY 2025.

Additionally, the majority report increases the maximum benefit provided under the PTFC for qualifying senior homeowners and renters from \$1,500 to \$2,000. PTFC program provides eligible income tax filers with a refundable credit for a portion of the property tax or rent paid during the tax year, regardless of whether a qualifying resident owes income taxes. Of great importance, the rebate is available to homeowners enrolled in the property tax deferral program. The cost of funding the program is \$30.7 million in FY 2025.

The changes proposed to both programs would be in ef-

*(continued on page 2)*

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## Excess Revenue for Sales of Tax Acquired Property

Last week, the U.S. Supreme Court rendered a unanimous decision on *Tyler v. Hennepin County, Minnesota*, which focused on the rights previous owners have to a portion of the revenue that is generated from the sale of tax acquired property.

As summarized by MMA Legal Services in a May 25, 2023 guidance document, “In a unanimous decision, the Court held that Tyler stated a plausible claim under the Fifth Amendment’s Takings Clause, which prohibits the government from taking property for public use without just compensation. The Court found that although Minnesota law allowed the County to seize and sell the condo to recover delinquent taxes, the County violated the constitution by taking more property than was due from Tyler. It was not the foreclosure or sale of the property that violated the constitution, rather, the County violated the Takings Clause by keeping the surplus equity.”

At the core of the issue is existing law providing that absent

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## Fix to Stabilization Bill...cont'd

fect on January 1, 2024.

**Minority Report.** Out of concern that the program is too popular among property taxpayers to repeal and with a fear that the “giveth and taketh away” approach could fuel distrust in government, the minority report on LD 130 instead amends the property tax stabilization program by removing the annual application requirement. However, the minority amendment also requires participants to reenroll in the program if any future improvements to a property, such as the addition of a garage, increases the assessed value by more than \$20,000, or if the municipality asks the property owner to reapply. The intent is to limit the benefit to the originally capped property tax amount.

With the session expected to end in late June, LD 130 will soon be before the House and Senate for debate. In the meantime, please reach out to your legislators and ask them to support the majority report.

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## Excess Revenue for Sales ...cont'd

the adoption of a municipal ordinance authorizing a portion of the proceeds of the sale of tax acquired property to be returned to the previous owner, the municipalities retain the revenue to help reduce the costs of providing services.

Waiting in the wings since February 7 is LD 101, *An Act to Return to the Former Owner Any Excess Funds Remaining After the Sale of Foreclosed Property*, sponsored by Rep. Chad Perkins of Dover-Foxcroft. As originally proposed, the bill requires municipalities to provide notice of the availability of excess funds associated with tax acquired property. In cases where the property is not sold within six months of acquisition, the excess is calculated by subtracting related expenses from the fair market value of the property. The bill also enumerates the categories of costs that can be recovered by the community, prescribes the process for notifying a previous owner of the right to the excess revenue, and directs

that owed funds be kept in a segregated escrow account until negotiations over the amount of revenue to be returned to the previous owner are finalized.

During a work session on Tuesday, the Taxation Committee debated the available options, which boiled down to three: (1) amend LD 101 to extend to all tax acquired properties the provisions in state law found in Title 36, section 943-C for disposing of property previously owned by qualifying senior residents; (2) take the time necessary to research the options and advance a solution for adoption by the Legislature in 2024; or (3) implement a yet to be advanced option.

Interested parties, including MMA, are currently working on possible “third option” solutions for presentation to the committee when it meets next week to finalize an approach on the disbursement of excess sales revenue. Please stay tuned.

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## Pole Attachments to Sunset?

...We will see in five years.

On Tuesday, the Energy, Utilities and Technology Committee held the final work session on LD 1223, *An Act to Clarify Cost Allocations and Insurance in the Joint Use of Public Utility Equipment*, sponsored by Sen. Nicole Grohoski from Hancock County.

After tabling LD 1223 at the previous work session, the chair reminded committee members the reason for that was to allow interested parties to work out a resolution to the insurance liability limits language. The representative for Versant Power and Consolidated Communications rose to inform the committee that he worked incredibly hard with stakeholders and the bill sponsor to come up with the amendment that was presented to the committee limiting a municipality’s liability insurance requirement for the pole attachment to \$5 million and explicitly add to the agreements that the municipality is in no way waiving their right to immunity under the Maine Torts Claim Act.

However, after delivering this statement, the pole owner representative stated that they are not in favor of putting a specific dollar limit in statute. Central Maine Power added

support to that position. Upon hearing this, the committee chair confirmed with MMA that they did want the limit added into the amendment. With that, there wasn’t much to left that needed to be discussed regarding this bill.

Eventually, committee members gathered behind closed doors to caucus on all the bills worked during the afternoon. Upon their return over an hour later, the committee entertained a motion of ought to pass as amended, with the amendment being the one presented during the work session that day. Sen. Grohoski was asked if she would be open to having a sunset clause put into the bill. In the spirit of compromise and in hopes of attaining a unanimous report, she agreed.

LD 1223 was voted out of committee with that unanimous report and included the amendment with a sunset clause of five years. Ultimately, it’s a win for MMA and a future fight to retain the dollar limit in five years’ time.

A sincere thank you goes out to Sen. Grohoski for her tireless work to get this bill through the committee. We appreciate all her efforts to assist MMA and our members.

# Pine Trees, Chickadees, Workforce Affordable Housing

Wednesday of this week, the Taxation Committee held a third and final work session on one of MMA's platform bills, LD 1493, *An Act to Increase Affordable Housing by Expanding Tax Increment Financing*. The bill, sponsored by Rep. Raegan LaRochelle of Augusta, made it out of committee with a few amendments and a party line vote of those present. Redline confusion may have led to the divided report, but even in the amended form, the bill provides municipalities with a powerful tool to leverage public/private partnerships for housing in communities that are familiar with Tax Increment Financing (TIF).

As amended, LD 1493 would allow a community to use the retained value from an economic or affordable housing TIF district to: (1) keep existing multi-family housing in a designated zone affordable for residents with incomes of up to 120% of the region's area median income; (2) access the bonds necessary to advance projects more quickly; or (3) assist multi-unit dwelling owners with maintaining affordable or workforce rent levels in exchange for offsetting the costs to upgrade or expand rental properties in a construction market that makes them unaffordable. The amended version removes the sales tax exemption for products and services directly related to eligible projects, though a non-profit developer would still receive existing exemptions.

Housing, particularly mid-range housing, is directly linked to community economic development goals. As the average wage in Maine is roughly \$58,924 according to census data, and the price of the average home hovers around \$318,628, a typical working family with perfect credit falls \$30,000 short of affording the virtually non-existent property. At the time this article went to print, there were five properties for sale in Augusta below that median cost level, two of which are condominiums.

If high wages are a requirement to access the housing market, economic

development in communities will be significantly limited. Without the ability to leverage a public/private voluntary partnership envisioned by the creation of new housing zone originally called the "Pine Tree Housing Zone" but amended to the "Chickadee Housing Zone" in committee, gentrification and outmigration will reign. Communities will struggle to attract the public servants necessary to deliver government services, workers necessary to staff popular eateries and retail shops, and limit the types of businesses that economic development professionals can attract to Maine.

As an example of the unintended consequences associated with the lack of response to a booming housing market, one only needs to look to San Francisco which needed to build overnight housing for their police officers. Prior to providing the housing, officers, whose salaries averaged \$83,000 annually, were required to commute two hours to the closest city where an affordable home could be found.

Housing programs currently target those on the lowest income tier and the market favors the highest income tier. By leveraging community buy in, oversight and existing TIF programs, and developer credit enhancements, LD 1493 provides the tools to keep and grow housing for low to middle income residents who do not benefit from existing development incentive programs.

Additionally, LD 1493 will help communities protect current multi-family dwelling rates from catering to only luxury salaries, support innovative projects to keep seniors with large homes aging in place through renovations to house another fixed income senior neighbor, and advance projects under the existing affordable housing TIF program at a much faster rate.

TIF programs are complex and challenging to understand, which likely led to the divided report out of the committee. Legislators without TIF experience should understand that essentially, it is the only program that requires a municipality

to ask the state for permission to use its own future property tax growth, which is already approved by the residents, to achieve the locally important economic goals of that municipality, which ultimately feeds state general fund coffers associated with the business growth. The capped retained property tax value supports all the associated economic growth activity with little effort from state government. Communities without resident support for TIF agreements do not have them. This is the ultimate check and balance on the system.

The amended bill, which was drafted with support from MaineHousing, received no opposition and was lauded by economic development professionals as an innovative and much needed tool in the TIF box. The Legislature will debate the bill's merits in the coming weeks in chambers to decide its final fate.

The Association and its members are deeply appreciative of the work of the bill's sponsor, Rep. Raegan LaRochelle, to expand the tools for communities to tangibly address their housing needs in direct consultation with their residents.

Economic development professionals who are interested in establishing a working group over the summer with MMA should contact Rebecca Graham at [rgraham@memun.org](mailto:rgraham@memun.org).

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## IN THE HOPPER

### Taxation

LD 2005 – An Act to Eliminate the Aircraft Excise Tax  
(Sponsored by Rep. Fredericks of Sanford)

This bill repeals the annual excise tax imposed on aircraft and provides an explicit exemption from the excise tax for aircraft.

LD 2006 – An Act to Amend the Laws Regarding Adjustments for Sudden and Severe Disruption of Municipal Valuation  
(Sponsored by Sen. Keim of Oxford Cty.)

This bill provides that the amount of money that a municipality that qualifies for an adjustment for sudden and severe disruption of valuation uses from undesignated fund balances does not reduce the amount of money that municipality receives in state-municipal revenue sharing.

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the Legislative Bulletin to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, [www.memun.org](http://www.memun.org).)