

131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1867

H.P. 1197

House of Representatives, May 2, 2023

An Act to Establish the Community Housing and Rural Development Authority

Reference to the Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed.

ROBERT B. HUNT

R(+ B. Hunt

Clerk

Presented by Representative LOOKNER of Portland.
Cosponsored by Senator VITELLI of Sagadahoc and
Representatives: BELL of Yarmouth, GATTINE of Westbrook, GOLEK of Harpswell,
JAUCH of Topsham, KESSLER of South Portland, MILLETT of Cape Elizabeth, RANA of
Bangor, SACHS of Freeport.

2 3	Sec. 1. 1 MRSA §1008, sub-§5, as enact read:	ted by IB 1995, c. 1, §6, is amended to
4 5 6	5. Maine Clean Election Act and Maine Clean Election Act and Maine Clean Election Fund according to Title 21-A, chapter 14	Clean Election Act and the Maine Clean
7 8	Sec. 2. 1 MRSA §1008, sub-§6, as amenamended to read:	nded by PL 2005, c. 301, §1, is further
9 10 11	6. Enhanced monitoring. To provide for en election practices and the electronic submission of campaign, election and lobbying information under	of reports and computerized tracking of
12	Sec. 3. 1 MRSA §1008, sub-§7 is enacted	to read:
13 14 15 16 17	7. Community Housing and Rural Development interest statements provided by board me Housing and Rural Development Authority estable and to submit comments on the economic interest statement of the economic interest statement this subsection. Reare routine technical rules as defined in Title 5, characteristics.	embers or employees of the Community lished under Title 30-A, chapter 204-A statements to the board. The commission ules adopted pursuant to this subsection
19	Sec. 4. 5 MRSA §1524 is enacted to read:	
20 21	§1524. Private use of state-owned real proper legislative approval required	ty; community housing development;
22 23 24 25 26 27 28	The sale or transfer of state-owned real property for private use requires the approval of the Legislature. When the State considers selling or transferring state-owned real property for private use, it shall conduct a feasibility study, including studying the housing needs in the State, to consider whether the property should be sold or transferred to the Community Housing and Rural Development Authority established under Title 30-A. chapter 204-A. The State shall submit the feasibility study to the joint standing committee of the Legislature having jurisdiction over housing matters.	
29	Sec. 5. 5 MRSA §12004-G, sub-§14-K is	s enacted to read:
30	<u>14-K.</u>	
31 32 33 34 35	Housing Community Housing and Rural Development Authority board	Compensation determined under 30-A MRSA \$5180 and Expenses
36	Sec. 6. 30-A MRSA c. 204-A is enacted to	read:
37	CHAPTER 20	<u>04-A</u>
38	COMMUNITY HOUSING AND RURAL	DEVELOPMENT AUTHORITY

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

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\$5171. Definitions As used in this chapter, unless the context otherwise indicates, the following term have the following meanings. 1. Area median income. "Area median income" means income adjusted for familisize that is determined using the federal standards generally accepted on October 15, 202 and comparable to standards of the United States Department of Housing and Urba Development in existence on October 15, 2023. 2. Authority. "Authority" means the Community Housing and Rural Development Authority established in section 5172. 3. Board. "Board" means the board that governs the authority pursuant to section 5173. 4. Community housing development. "Community housing development" means building that is used by the authority for mixed-income, permanently affordable public residential housing. 5. Constituency. "Constituency" means the Constituency of the Community Housing and Rural Development Authority established in section 5191. 6. Extremely low income. "Extremely low income" means income that is less that 30% of the area median income. 7. Fund. "Fund" means the Revolving Community Housing Fund established is section 5195. 8. Low income. "Low income" means income that is between 50% and 80% of the area median income. 9. Moderate income. "Moderate income" means income that is between 80% and 120% of the area median income.
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10. Very low income. "Very low income" means income that is between 30% an 50% of the area median income.
§5172. Establishment; purposes
The Community Housing and Rural Development Authority is established within the Maine Redevelopment Land Bank Authority, as established in Title 5, section 12004-C subsection 7-G, for the purposes of developing, owning, leasing and maintaining community housing developments in this State.
§5173. Governance; board
The authority is created as a body corporate and politic and a public instrumentality of the State and is governed by the board in accordance with this subchapter.
§5174. Board members; appointment

2	1. Appointments. The board consists of members appointed in accordance with this subsection.
3 4	A. The Governor shall appoint 3 members with expertise in public housing finance, urban planning and nonprofit housing development.
5	B. The Maine State Housing Authority shall appoint:
6	(1) One member who has experienced housing insecurity;
7 8	(2) One member who has experienced forcible entry and detainer on financial grounds;
9	(3) One member who is a member of a tenant's union;
10	(4) One member with extremely low income;
11	(5) Two members with very low income;
12	(6) Two members with low income;
13	(7) Two members with moderate income; and
14 15	(8) One member who is a leader from a community organization that provides housing to marginalized communities.
16	This paragraph is repealed July 1, 2027.
17 18	C. The constituency shall appoint 7 members who are tenants of a community housing development.
19	This paragraph takes effect July 2, 2027.
20	D. The board shall appoint one member following a public call for self-nominations.
21	This paragraph takes effect July 2, 2027.
22 23	E. The Maine Labor Relations Board, as established in Title 5, section 12004-B, subsection 2, shall appoint one member of a labor union.
24 25 26	F. The Efficiency Maine Trust Board, as established in Title 5, section 12004-G, subsection 10-C, shall appoint one member with expertise in energy-efficient housing development.
27	§5175. Terms; vacancies; removal
28 29 30 31 32 33 34	Board members serve 4-year terms. Board members serve until their successors are appointed and take office. Vacancies must be filled in the same manner as the original appointments, except that any person appointed to fill a vacancy serves for the remainder of the unexpired term of the vacancy. Board members may not serve for more than 8 consecutive years on the board. The Governor may remove a board member upon a showing that the board member had unexcused absences from 3 or more consecutive meetings or 2/3 of the scheduled meetings in a 6-month period.
35	§5176. Chairs; officers
36 37 38	The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the board members. Each officer serves a one-year term in that office and is eligible for reelection.
39	§5177. Meetings; quorum

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1 2 3 4 5	The board shall meet at least once per month and at other times at the call of the chair. The board shall review balance sheets and monthly statements of income and expenses that compare budgeted expenditures to actual expenditures. A majority of the board constitutes a quorum. Meetings of the board are public proceedings as provided by Title 1, chapter 12 supplies the control of the board are public proceedings.
6	13, subchapter 1. §5178. Election of subcommittees
7 8 9	The board may elect subcommittees of no fewer than 3 members and no more than 6 members, which, between meetings of the board, may transact business of the board as the board authorizes.
10	§5179. Bylaws
11 12	The board shall adopt bylaws for the governance of its affairs consistent with this chapter.
13	§5180. Compensation
14 15 16	The authority shall pay board members representing tenants, community organizations and union interests for the members' time conducting board business. The board may decide to pay other board members for their time.
17	§5181. Powers and duties; restrictions
18	1. Powers and duties. The authority shall:
19 20	A. Except as provided in subsection 2, possess all of the powers a corporation has under Title 13;
21 22 23 24	B. Develop, own, lease and maintain community housing developments, in accordance with the requirements of section 5182, that serve a mix of household income ranges including households with extremely low income, very low income, low income and moderate income, and a mix of household sizes;
25 26	C. Manage any source of funds, including local, state, federal or private funds, or real property;
27 28	D. Request of the State that any real property that is unused, underused or surplus be made available to the authority for a community housing development;
29	E. Propose amendments to the laws governing the authority to the Legislature;
30 31	F. Report no later than January 1st annually to the joint standing committee of the Legislature having jurisdiction over housing matters on the activities of the authority;
32	G. Explore unit ownership options for tenants;
33	H. Hire employees;
34	I. Issue bonds and capitalize the fund; and
35 36	J. Perform other functions necessary or useful for carrying out any of its powers of duties.
37 38	2. Restrictions. Notwithstanding any provision of this chapter to the contrary, the authority may not:
39	A. Issue shares of stock or pay dividends;

1 B. Make loans;

- 2 <u>C. Merge with another entity; or</u>
- D. Transfer a community housing development to another entity unless the development continues to be subject to the requirements in section 5182.

§5182. Requirements for community housing developments

This section governs the requirements for a community housing development.

- 1. Ownership requirements. A community housing development:
- A. Must be owned by a majority ownership interest by the authority;
 - B. Must be protected from being sold or transferred to a private entity or a public-private partnership; and
 - C. May be purchased by the tenants of the community housing development on a cooperative basis when the community housing development is paid off and there is unanimous agreement between the authority and the governance council of the development formed pursuant to section 5192. For purposes of this paragraph, "cooperative basis" has the same meaning as in Title 13, section 1501, subsection 2.
 - 2. Community housing development requirements. The authority shall require that a community housing development meet the energy efficiency and labor standards for projects funded by the Maine State Housing Authority.

§5183. Audit

The authority shall submit to an audit by the State Auditor at any time the State Auditor determines is necessary to ensure that the purposes of the authority are reasonably accomplished and to correct a deficiency. The authority shall make available for examination by the State Auditor all of its financial records. The State Auditor may not supervise the daily operations of the authority. The board may engage an independent auditor as it determines necessary.

§5184. Dissolution

The authority shall adopt rules regarding its dissolution.

§5185. Liability

- 1. Insurance. The authority shall maintain liability insurance in an amount sufficient to cover potential claims for bodily injuries, death, disabilities or property damage related to its projects and activities. The authority shall maintain liability insurance in an amount determined by the board to be adequate to protect board members and employees of the authority.
- **2. Bond.** All members of the board and any employees of the authority with the responsibility of handling finances of the authority must be bonded in an amount determined by the board to be adequate. The authority shall pay for the premiums for the bond. The authority shall identify these members or employees and the amounts of their bonds in its annual report required pursuant to section 5181, subsection 1, paragraph F.
- <u>3. Limitation.</u> A person does not have any right of action against the State relating to the activities of the authority. All liabilities must be satisfied from the assets and properties of the authority.

4. Notice required. The authority shall post the following notice in a prominent place where the public may see it in the authority's offices and include in contracts, bonds and other documents regarding debt or liability by the authority:
"All liabilities incurred by the Community Housing and Rural Development Authority must be satisfied exclusively from the assets and properties of the Community Housing and Rural Development Authority, and a person does not have a right of action against the State relating to the activities of the Community Housing and Rural Development Authority."
§5186. Conflict of interest
A board member is deemed to be an executive employee for the purposes of Title 5, sections 18, 18-A and 19. A board member or employee of the authority or a spouse or dependent child of any of those individuals may not receive any direct personal benefit from the activities of the authority. Annually by April 15th, a board member or employee shall file statements of economic interest with the Commission on Governmental Ethics and Election Practices in accordance with Title 1, section 1008, subsection 7.
§5187. Freedom of access
The records of the authority are subject to the freedom of access laws under Title 1, chapter 13, subchapter 1.
§5188. Rulemaking
The authority shall adopt rules to implement this chapter. The rules must establish an equitable, minimal-barrier application process, state residency requirements for tenants of a community housing development, means of maintaining existing tenants if the authority takes ownership of an occupied building and meaningful tenant input and representation requirements for authority decision making and conflict resolution. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
SUBCHAPTER 2
TENANTS OF COMMUNITY HOUSING DEVELOPMENTS
§5191. Constituency established
1. Establishment. The Constituency of the Community Housing and Rural Development Authority is established and must consist of tenants of community housing developments.
2. Majority required. A majority of the constituency is required for the authority to:
A. Propose amendments to the laws governing the authority in accordance with section 5181, subsection 1, paragraph E;
B. Adopt rules in accordance with section 5188;
C. Set compensation of board members in accordance with section 5180; and
D. Select an independent auditor in accordance with section 5183.

1 **3. Governance structure.** The authority shall adopt rules regarding the constituency, 2 including, but not limited to, membership, notice, quorum and meeting frequency. 3 **4. Board appointments.** The constituency shall appoint 7 members to the board in 4 accordance with section 5174, subsection 1, paragraph C. If a candidate for a member does not receive a majority affirmative vote, a run-off election between the top 2 candidates 5 must be held no later than one month following the first election. 6 7 This subsection takes effect July 2, 2027. 8 §5192. Governance councils 9 Each community housing development shall form a governance council consisting of 10 7 members. 11 **1. Duties.** A governance council shall: 12 A. Host regular meetings to gather feedback from tenants; 13 B. Provide feedback from tenants to property management; 14 C. Represent the interests of the tenants in meetings with the board; 15 D. Provide input on the use of any budget disbursed for common room amenities or 16 social events: 17 E. Participate in discussions about renovation projects; and 18 F. Fulfill other responsibilities as determined by the authority by rule. 19 2. Structure. The authority shall adopt rules regarding governance councils, including, but not limited to, the size of a governance council based on the size of the 20 21 community housing developments it represents. 22 3. Consultation. A governance council may consult with a nonprofit corporation with 23 experience establishing managerial policies and practices that align with the requirements 24 for a community housing development and providing suitable tenant protections. 25 **SUBCHAPTER 3** 26 REVOLVING COMMUNITY HOUSING FUND 27 §5195. Revolving Community Housing Fund established 28 The Revolving Community Housing Fund is established within the authority in order 29 to provide gap financing to acquire or develop a community housing development using the proceeds of bond issuances. 30 31 Sec. 7. Initial appointments; staggered terms. Appointments must be made to 32 the board of the Community Housing and Rural Development Authority under the Maine Revised Statutes, Title 30-A, chapter 204-A within 60 days of the effective date of this Act. 33 34 Notwithstanding Title 30-A, section 5175, members appointed pursuant to section 5174, 35 subsection 1, paragraph B serve an initial term of 4 years, and at the initial meeting of the 36 board of the Community Housing and Rural Development Authority the remaining 37 members shall draw lots to determine members' initial term lengths so that the initial terms of 3 members expire after 2 years and the initial terms of 2 members expire after 3 years. 38

Sec. 8. Initial meeting; bylaws. No later than 90 days following the effective date of this Act, the Governor or the Governor's designee shall call the first meeting of the board of the Community Housing and Rural Development Authority under the Maine Revised Statutes, Title 30-A, chapter 204-A and preside over the selection of a chair. The Governor or the Governor's designee shall provide board members with at least 7 days' notice of the meeting. In accordance with Title 30-A, section 5179, the board shall adopt bylaws. The board shall adopt bylaws within 90 days of the initial meeting of the board.

Sec. 9. Startup support. The State shall provide the Community Housing and Rural Development Authority under the Maine Revised Statutes, Title 30-A, section 5172 with assistance as necessary during the first 18 months following the effective date of this Act. For purposes of this section, "assistance" includes office space, staff, supplies, insurance and bonding, legal services and the hiring of the authority's chief executive officer and chief financial officer. Assistance provided pursuant to this section may not derive from funding appropriated or allocated for housing and may not reduce any state funding for housing projects.

16 SUMMARY

This bill establishes the Community Housing and Rural Development Authority within the Maine Redevelopment Land Bank Authority to develop, own, lease and maintain mixed-income, permanently affordable public residential housing in this State.