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**Final Report
of the
BLUE RIBBON COMMISSION ON
AFFORDABLE HOUSING**

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Executive Summary

The Blue Ribbon Commission on Affordable Housing was established by Resolve 2011, chapter 108 (Appendix A). The Commission consists of 17 members: eight appointed by the President of the Senate, seven appointed by the Speaker of the House, the Director of the Maine State Housing Authority, and the Commissioner of Economic and Community Development. A list of Commission members is included as Appendix B. The resolve directs the Commission to seek funding contributions to fully fund the costs of the study. Outside funding was provided by the Maine Affordable Housing Coalition (MAHC), a statewide nonprofit organization.

The duties of the Commission are set forth in Resolve 2011, chapter 108 (Appendix A). The duties include the following:

- Review current data and research on affordable housing among the New England states and nationally;
- Assess the economic impact of affordable housing in this State;
- Review innovative affordable housing programs in other states;
- Identify regulatory barriers to affordable housing; and
- Submit a report, with findings and recommendations, to the Maine Legislature by February 15, 2012.

The Blue Ribbon Commission on Affordable Housing met four times and reached agreement on the following findings and recommendations.

The Commission's deliberations were guided by the fundamental principle that affordable housing is critical to the well-being of all Maine families and that all Maine people should have access to decent and safe affordable housing. Due to the breadth and complexity of both federal and State housing laws and funding sources, the Commission determined that it had insufficient time to perform an in-depth review of certain aspects of housing policy, including the identification of cost drivers associated with affordable housing development. However, the Commission believes that affordable housing plays a vital role in helping to meet the essential needs of low- and moderate-income families, the elderly and special needs populations, as well as young adults within Maine communities.

A. Multi-family Housing

Federal issues

- **Finding #1:** The Commission recognizes the significant impact that federal resources have on Maine's ability to provide affordable housing assistance to low-income families. In addition, the federal government authorizes state and local governments to use the proceeds from the sale of tax-exempt private activity bonds to fund affordable housing activities in their respective states. The Commission finds that tax-exempt private activity bonds are a critical funding source for affordable housing in Maine.

- **Recommendation #1:** The Commission recommends sending a letter to Maine’s federal delegation that advocates for the continuation and preservation of federal housing assistance programs and incentives at existing funding levels in recognition of the significant demand for affordable housing in Maine.
- **Recommendation #1-A:** The Commission also recommends sending a letter to Maine’s federal delegation that advocates for the federal government to preserve the authority for the State and local governments to issue tax-exempt private activity bonds that allow the proceeds of the bond sale to finance mortgages for multi-family housing. The Commission recommends that the State and local governments promote the use of this valuable resource to the maximum extent possible.

State and local issues

- **Finding #1:** In order to streamline the regulatory process, the Maine State Housing Authority’s (MSHA’s) regulations for the production and preservation of affordable housing, to the maximum extent possible, should not be more restrictive than the applicable federal and State program requirements.
- **Recommendation #1:** The Commission recommends that MSHA review its regulatory requirements for affordable housing programs to ensure that they meet, but do not exceed minimum federal standards for these programs and are also consistent with State policy.
- **Finding #2:** The Commission finds that quality, multi-family housing is costly to develop due to the applicable building codes and life-safety requirements, and improvements that are necessary to ensure a positive quality of life for the individuals and families residing in these units. The Commission also finds that there are long-term benefits and cost savings related to energy efficiency building standards for these units, which may also include assisting MSHA with participation in the voluntary carbon market and energy conservation.
- **Recommendation #2:** The Commission recommends that MSHA explore innovative ways to provide rewards to developers of affordable housing who are able to assist MSHA with achieving energy efficiency savings or innovative solutions to reduce costs and maintain the benefits in affordable housing developments. This also includes assisting MSHA with their participation in the voluntary carbon market. The Commission also recommends that MSHA seek a balance using a proportional allocation of weatherization funds and program services for both single-family and multi-family housing on similar terms.

B. Single-family Housing

Federal issues

- **Finding #1:** The Commission is concerned about the high number of Maine homes that are in danger of foreclosure, and the impact this may have on the State’s ability to meet the need for affordable housing. Federal resources are available for mortgage delinquency and foreclosure prevention counseling services, which the Commission finds are important in helping to address Maine’s high rate of foreclosures.

- **Recommendation #1:** The Commission recommends continued support of federal funding for federal foreclosure prevention and delinquency counseling programs through agencies like HUD and *NeighborWorks America* (community-focused affordable housing programs and services).
- **Finding #2:** The Commission finds that changing employment patterns and economic conditions in Maine have significantly affected housing affordability. The Commission finds that providing workforce housing should be a focus of federal and State housing programs.
- **Recommendation #2:** The Commission recommends sending a letter to Maine's federal delegation advocating for changes in federal law that would allow MSHA to use its first-time homebuyer program for mortgage assistance to a broader array of Maine families that are in need of workforce housing.

State and local issues

- **Finding #1:** Maine does not receive dedicated federal funding for single-family housing. However, the federal government authorizes state and local governments to issue tax-exempt private activity bonds, and allows the proceeds to be used to fund affordable housing for first-time homebuyers. The Commission finds that this is a critical source of revenue for the State, which provides valuable mortgage assistance for first-time homebuyers and financing for the construction of affordable housing.
- **Recommendation #1:** The Commission recommends that the State resume the use of tax-exempt private activity bonds, as authorized by the federal government, in order to generate valuable revenue to finance mortgages for first-time homebuyers.
- **Finding #2:** The Commission finds that the judicial foreclosure process in Maine is a lengthy process and the State should support efforts to streamline the process, in order to assist those homeowners who are interested a more expeditious foreclosure process. Since June 15, 2010, real estate transfer taxes have been imposed on the purchase and sale of foreclosure properties, which, in turn, have been dedicated to the Department of Professional and Financial Regulation (DPFR) Bureau of Consumer Credit Protection to fund statewide outreach and housing counseling services.
- **Recommendation #2:** The Commission recommends sending a letter to the Joint Standing Committee on Labor, Commerce, Research and Economic Development, with a copy to the Joint Standing Committee on Appropriations and Financial Affairs, advocating for the Legislature to continue State funding through the Real Estate Transfer Tax (from the purchase and sale of foreclosed properties) of the foreclosure prevention program at the Bureau of Consumer Credit Protection.
- **Finding #3:** The Commission finds that home rehabilitation and repair loans and grants to low-income homeowners may be the least expensive way to address many housing issues in both urban and rural areas. Helping homeowners address health and safety issues, through rehabilitation or weatherization, costs considerably less than new home construction.

- **Recommendation #3:** MSHA should continue to focus its efforts on providing low-interest home improvement loans to homeowners so that homes remain more affordable for the long term. The Commission recommends continued efforts to improve existing housing stock, such as the array of federal rehabilitation and weatherization programs that provide critical assistance to low-income families for energy efficiency improvements, energy assistance, appliance replacement, and other related goals [through the Low Income Home Energy Assistance Program (LIHEAP), Weatherization Assistance Program, Community Housing Improvement Program (CHIP), Appliance Replacement Program, Regional Employer-Assisted Collaboration for Housing (REACH)]. The Commission also recommends continued support of Efficiency Maine's Property Assessed Clean Energy (PACE) program that assists homeowners with obtaining low-interest weatherization home improvement loans (up to \$15,000) to help reduce energy costs and make homes more comfortable and affordable. These loans can either be paid back by the homeowner over a 15-year period or, if the home is sold, the loan can either be paid off or the remaining balance can be transferred in the loan to the next owner. The Commission also recommends grants in this area for low-income families who may be unable to qualify for a loan or afford loan payments.
- **Finding #4:** The Commission finds that zoning and land use requirements have a significant impact on the affordability of housing.
- **Recommendation #4:** The Commission recommends that the Joint Standing Committee on Labor, Commerce, Research and Economic Development and the Joint Standing Committee on State and Local Government review successful zoning and land use programs in other states that encourage single-family and multi-family developments, include plans to have an affordability component, including for workforce housing, and focus on smart-growth principles. The Commission recommends the use of mixed-use zoning ordinances that support the development of buildings that serve a combination of residential and commercial development purposes. The Commission also recommends the creation of a model voluntary incentive program for municipalities to adopt to help enhance the development of affordable housing for moderate- and low-income families, especially in communities that are close to jobs and transportation where there is a significant demand for affordable housing.
- **Finding #5:** The Commission finds that manufactured homes offer a positive alternative for those in need of affordable housing and looking for a means of entry into homeownership.
- **Recommendation #5:** The Commission recommends that MSHA continue to provide low-interest loans for first-time homebuyers that are interested in purchasing a qualifying HUD-certified manufactured home.

C. Special Needs and the Elderly

Federal issues

- **Finding #1:** The Commission finds that there is a dramatic need for Section 8 vouchers across the nation and in Maine. There are significant waiting lists for subsidized housing and the Section 8 voucher program across the State and federal funding does not meet the significant demand for this type of housing in Maine. Additionally, the Private Non-Medical Institutions (PNMIs) may undergo significant changes as they relate to Medicaid reimbursement, which may result in discharges for some residents from these facilities and a greater need for affordable, barrier-free housing.
- **Recommendation #1-A:** The Commission recommends that Maine's federal delegation prioritize funding to increase by four times the number of Section 8 housing vouchers than is currently provided to the State of Maine.
- **Recommendation #1-B:** In response to the changes in federal Medicaid reimbursement for PNMIs, the Commission recommends that the Department of Health and Human Services (DHHS) explore other programs that are non-PNMI based that could provide alternative sources of funding for affordable subsidized housing for the elderly and those with special needs.

State and local issues

- **Finding #1:** The Commission finds that Maine's demographics and limited resources require significant planning in order to ensure that affordable housing projects meet the needs specific to each region of the State. Coordination between the developers of affordable barrier-free housing for Maine's special needs and elderly populations, and the providers of State services must be improved. The Commission finds that moving the elderly and individuals with special needs out of PNMI-based affordable housing has a ripple effect on all parties involved. Moving affects the individuals in need of the housing and also affects MSHA when it has issued the debt to build the affordable housing and the developers that own and operate the housing. If funds are no longer provided by DHHS to the developer to pay for the mortgage and services provided for in this type of housing, then the mortgage is not paid and MSHA is then unable to pay the bond service, which could result in default.
- **Recommendation #1:** The Commission recommends that the Joint Standing Committee on Labor, Commerce, Research and Economic Development direct the creation of a stakeholder group convened by the Office of Elder Services with MSHA, in cooperation with the Office of Cognitive and Physical Disability Services, the Office of Adult Mental Health Services, Licensing and Regulatory Services, the Statewide Homeless Council and any other interested parties to develop a comprehensive, coordinated plan to address the housing and service needs of Maine's low-income elders, adults with disabilities and the homeless. The stakeholder group should consider the creation of memorandums of understanding between MSHA and DHHS regarding expectations for both groups in the development of housing and services. The Commission recommends that this stakeholder group further explore the idea that PNMI services be tied to the affordable

housing unit, rather than to the individual who receives the services. This will ensure that the affordable housing development receives a more consistent flow of funding to cover the length of the mortgage required to finance these units, so valuable services and assistance can continue to be provided to the elderly and individuals with special needs over the long term.

- **Finding #2:** The Commission finds that one of MSHA's primary roles is to provide safe, affordable housing for special needs populations, but housing will fail if DHHS or some other resource does not provide reliable, long-term funding for supportive services that these populations need.
- **Recommendation #2:** The Commission recommends that DHHS prioritize funding to ensure that services will be available to low-income elderly homeowners and individuals with special needs so that they can remain independent in their own homes for as long as they are able to do so. The Commission also recommends that funding be provided to increase the availability of long term care services and support for low-income elderly and individuals with special needs so that they can remain independent in their homes within their communities.
- **Finding #3:** The Commission finds that efforts to provide safe housing for the elderly, increase the quality of Maine's housing stock, and help reduce the State's overall nursing home cost are essential. The Commission finds that the rehabilitation and weatherization of older housing stock and multi-unit affordable housing projects for the elderly and other special needs populations are important steps toward addressing housing affordability issues.
- **Recommendation #3:** The Commission recommends continued support for programs across the State that provide services to assist low-income elderly homeowners to remain in their homes by providing home repairs, home accessibility modifications, energy conservation improvements, and other related services to help people age in place.
- **Finding #4:** The Commission finds that greater collaboration among State and federal agencies is critical to ensure the greatest return from limited resources. The Commission finds that the DHHS and the Department of Defense, Veterans and Emergency Management (DVEM) could benefit from collaborative efforts during the planning stage in the creation of multi-family affordable housing units for homeless veterans and recognizes the success of such collaboration during previous years.
- **Recommendation #4:** The Commission recommends that a letter be sent to MSHA requesting that MSHA work with DVEM, Bureau of Veterans' Services and DHHS to maintain outreach efforts with homeless veterans and to collaborate in efforts to develop multi-family affordable housing units for homeless veterans.
- **Recommendation #4-A:** The Commission recommends a letter be sent to the Joint Standing Committee on Labor, Commerce, Research and Economic Development requesting that the Statewide Homeless Council provide an annual report to the Committee summarizing its progress and the collaboration that has occurred between the relevant State and local agencies and regional councils appointed to the Statewide Homeless Council (30-A MRSA § 5047). The Commission supports the Council's current efforts to coordinate homeless assistance services as well as funding resources.

The Commission recommends that these efforts be strengthened with increased participation by the pertinent State agencies, including at least quarterly attendance at Council meetings by appointees.

I. INTRODUCTION

The Blue Ribbon Commission on Affordable Housing was established by Resolve 2011, chapter 108 (Appendix A). The Commission consists of 17 members: eight appointed by the President of the Senate, seven appointed by the Speaker of the House, the Director of the Maine State Housing Authority, and the Commissioner of Economic and Community Development. A list of Commission members is included as Appendix B.

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The Blue Ribbon Commission on Affordable Housing held meetings on October 26, November 9, December 5 and December 16. All meetings were open to the public and were broadcast by audio transmission over the Internet.

The Commission reviewed the following reports to assist in the development of its findings and recommendations: (1) *Housing Affordability in Maine: Taking Stock* by the Housing Affordability Initiative, Massachusetts Institute of Technology (MIT) Center for Real Estate; (2) *An Analysis of the Economic Impacts of a Proposed Affordable Housing Program for Maine* by the Maine Center for Business and Economic Research, University of Southern Maine; (3) *Affordable Housing: Barriers and Solutions for Maine*, a report of the Affordable Housing Subcommittee of the Community Preservation Advisory Committee; (4) *The Affordable/Workforce Housing Toolkit* developed by the Kennebec Valley Council of Governments (KVCOG), Androscoggin Valley Council of Governments (AVCOG) and Eastern Maine Development Corporation (EMDC); (5) *The Western Maine Regional Affordable/Workforce Housing Plan* prepared by AVCOG; and (6) *The Cumberland County Regional Housing Assessment* produced by the Greater Portland Council of Governments (GPCOG).

II. BACKGROUND

A. National housing trends

As the nation struggles to recover from the recession and the mortgage foreclosure crisis, housing data for the third quarter of 2011 indicates that the recovery in the housing market continues to remain fragile.¹ According to the *U.S. Housing Market Conditions 3rd Quarter Report for 2011* by the U.S. Department of Housing and Urban Development (HUD), Office of Policy Development and Research, the housing market may be beginning to show signs of improvement, as evidenced by the fact that “the number and share of loans more than 90 days delinquent but not in foreclosure are finally falling.”² However, the aftermath of the recession will continue to be felt by millions of Americans dealing with the mortgage foreclosure process, particularly in the areas of the country with the highest rates of foreclosures.³

According to the above-mentioned HUD report, the need for affordable housing across the country is growing, and not just for low-income families.⁴ In 2009, 19.4 million households paid more than half of their incomes for housing and “cost pressures have moved up the income scale” with “households earning between \$45,000 and \$60,000 [seeing] the biggest increase in the share paying more than 30 percent of their incomes for housing, up 7.9 percentage points since 2001.”⁵ The economic downturn also “drained household wealth, ruined the credit standing of many borrowers, and devastated communities with widespread foreclosures.”⁶ There has also been a national trend away from homeownership, despite the fact that low-interest rates and reduced housing prices are making homeownership more affordable now than it has been in recent history.⁷ The report further cautions that the impact of the mortgage foreclosure crisis could cause homeownership rates to continue to drop in 2011, and “the farther the homeownership rate falls, the longer it will take to work through the excess inventory of homes for sale and held off market.”⁸ As the need across the country for rental assistance increases, the current fiscal climate may not only make “increased federal support unlikely” but also may result in overall reductions in federal housing programs.⁹

B. Federal housing programs

Since the 1930s, the federal government has supported housing construction, homeownership and rental assistance programs for low-income people.¹⁰ The U.S. Housing Acts of 1934 (P.L. 73-479) and 1937 (P.L. 75-412) were enacted to address the significant need in the country for safe, decent and affordable housing for the nation’s poorest citizens as a result of the Great Depression. The Housing Act of 1937 declared that the new federal policy was necessary to:

¹ U.S. Housing Market Conditions 3rd Quarter, 2011, United States Department of Housing and Urban Development, Office of Policy Development Research, p. 1.

² *The State of the Nation’s Housing 2011*, Joint Center for Housing Studies of Harvard University, p. 31.

³ *Ibid.*

⁴ *Id.* at 4.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Id.* at 1.

⁸ *Ibid.*

⁹ *Id.* at 31.

¹⁰ *Overview of Federal Housing Assistance Programs and Policy*, Congressional Research Service Report for Congress, July 22, 2008, p. 1.

*“promote the general welfare of the nation by employing its funds and credit, as provided in this Act, to assist the several states and their political subdivisions to alleviate present and recurring unemployment and to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe and sanitary dwellings for families of low-income, in rural or urban communities, that are injurious to the health, safety, and morals of the citizens of the nation.”*¹¹

Since that time, the nation’s housing needs and federal housing programs have evolved from policies that centered largely on construction-based subsidized public housing, to policies that focus more on rental subsidies using existing properties and programs that allow for greater involvement by state and local governments in identifying funding priorities to meet the needs of low-income families in individual states.¹²

Current federal housing programs are predominantly controlled by HUD, with a few exceptions, and consist of the following forms of assistance: (1) rental housing assistance; (2) assistance to state and local governments; and (3) assistance to homeowners.¹³ The programs are focused on the goal of making housing affordable, which means that housing should not cost more than 30 percent of a family’s income.¹⁴

i. Rental housing assistance

A major source of federal rental housing assistance is the Section 8 voucher program (42 USC § 1437f(o)), which is managed by local public housing authorities (PHAs). The program is designed to help low-income families find housing in the private market by assisting with the cost of rent, so that the family pays 30 percent of its adjusted income for rent, and the local PHA pays the landlord the remainder, with limits set by the local housing authority. In order to participate in the program, which typically has a significant waiting list, a family must either have a very low income that is 50 percent or less than the local area median income (AMI), be considered low income (80 percent of AMI) and elderly, be a person with special needs or have some other qualifying criteria.

HUD also administers other types of rental assistance for the elderly and persons with disabilities. The Section 202 Supportive Housing for the Elderly program was created to provide funding for nonprofit organizations that develop rental properties for low-income elderly households (12 USC § 1701). The Section 811 Supportive Housing for Persons with Disabilities Program provides capital grants to nonprofit organizations that develop rental properties for households with disabled adults with very low incomes. The program also allows eligible participants to use vouchers for housing in the private market.¹⁵

Public housing is the second largest federal housing assistance program (42 USC § 1437), where the federal government contracts with local public housing authorities to provide affordable

¹¹ Id. at 2.

¹² Id. at 5.

¹³ Id. at 1.

¹⁴ Ibid.

¹⁵ Id. at 12.

housing to low-income and extremely low-income families, who pay 30 percent of their AMI towards rent.¹⁶

ii. *Assistance to state and local governments (LIHTC, HOME, CDBG, Homeless Assistance Grants, Housing Opportunities for Persons with Aids & Bonds)*

The Low Income Housing Tax Credit (LIHTC) (26 USC § 42) was enacted by Congress in 1986 to provide the private market with incentives to develop affordable rental housing and to generate equity capital for the construction and rehabilitation of affordable rental housing.¹⁷ The tax credits are allocated by the Internal Revenue Service (IRS) each year to state agencies, who then allocate the credits on a competitive basis through a Qualified Allocation Plan (QAP) to developers of qualified projects.¹⁸ The program offers two tax credit rates: a "9 percent" rate and a "4 percent" rate.¹⁹ For properties with the "9 percent" rate, annual housing credits are *roughly* equal to 9 percent of the qualified basis (the dollar amount that is eligible for housing tax credits each year over a 10-year period).²⁰ For properties with the "4 percent" rate, annual credits are *roughly* equal to 4 percent of the qualified basis each year over a 10-year period.²¹ A summary of the LIHTC program can be found in Appendix C of this report.

The tax credit is often sold by developers to investors to raise capital or equity in order to lower the overall debt the developer needs to borrow to complete the project, thus allowing the housing to be available at a lower, more affordable rent for low-income families. Each state can receive a maximum annual housing tax credit allocation of \$1.75 per resident, with only the first year of the 10 years of tax credits counting against the allocation.²² States allocate housing tax credits through a competitive process. Federal law mandates that the QAP give priority to affordable housing projects that (a) serve the lowest income families and (b) are structured to remain affordable for the longest period of time.²³ Maine's allocation for 2011 was \$2,830,380.²⁴

Another primary source of funding for states is the federal HOME Investment Partnerships program, which is administered by HUD and provides federal block grants to states for low-income housing for families that meet the following goals: homeowner rehabilitation, homebuyer assistance, rental construction and rehabilitation, and tenant-based rental assistance.²⁵ States and localities use the funds for a variety of rental and homeownership activities, such as constructing new units, rehabilitating existing units, offering down payment assistance, and providing tenant-based rental assistance. Federal HOME funds require that every dollar be matched by 25 cents of state, local or private funds.

Federal law requires that any HOME funds used for rental assistance must demonstrate that at least 90 percent of the units are occupied by families with incomes below 60 percent of AMI and the remaining 10 percent of the rental units can benefit families with incomes up to 80 percent of

¹⁶Id. at 9.

¹⁷ U.S. Department of Housing and Urban Development(see www.hud.gov/offices/cpd/affordablehousing/programs/home)

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ *Overview of Federal Housing Assistance Programs and Policy*, p. 16.

AMI. Rental projects with five or more HOME units must have at least 20 percent of the HOME units occupied by households with incomes below 50 percent of AMI (“very low income”). When the funds are used to assist homeowners or individuals who will become homeowners, all of the HOME funds must be used for housing for households with incomes below 80 percent of AMI.

HOME funds are used for grants or loans for any of the following purposes: to meet the need of any number of development costs, including buying existing housing or vacant land for affordable housing; to build new housing; to rehabilitate existing housing; to facilitate affordable housing through demolition, relocation, or site improvement; and to fund other “soft costs” such as engineering plans, attorneys’ fees, title searches and fair housing services. The funds can also be used to assist with buying or rehabilitating homes through loans, loan guarantees, down payment assistance, grants to renters for security deposits and rental assistance to ensure that low-income renters pay no more than 30 percent of their income for rent and utilities.²⁶ A summary of the federal HOME program can be found in Appendix C of this report.

A significant source of revenue provided to state and local governments is derived from their authority to issue private activity bonds in the form of mortgage revenue bonds, which are exempt from federal taxes. Mortgage revenue bonds are sold by state and local governments (or their authorized housing finance agencies) to investors and since the “interest earned by bondholders is exempt from federal and sometimes state taxation, the bonds can be marketed at lower interest rates than would be required for similar taxable instruments.”²⁷ States use the earnings they receive from the sale of the bonds, after issuance costs and reserves, to help provide assistance with mortgages for first-time homebuyers. To be eligible for this assistance, the following requirements must be met:

- a borrower must not have been a homeowner in the past three years;
- the mortgage must be for the principal residence of the borrower;
- the purchase price may not exceed 90 percent (110 percent in targeted areas) of the average purchase price in the area; and
- the income of the borrower may not exceed 110 percent (140 percent in targeted areas) of the median income for the area.²⁸

Another source of federal funding to states is through the Community Development Block Grant (CDBG) program (42 USC § 5301-5321) administered by HUD. The program provides funds to entitlement communities for the following purposes: the purchase and rehabilitation of properties for specific purposes; demolition of blighted properties; community services aimed at reducing crime and drug use; and housing counseling assistance.²⁹

HUD is also responsible for administering four homeless assistance grants including: (1) the Emergency Shelter Grants program; (2) the Supportive Housing Program; (3) the Single Room

²⁶ See www.hud.gov/offices/cpd/affordablehousing/programs/home.

²⁷ *Overview of Federal Housing Assistance Programs and Policy*, p. 15.

²⁸ *Ibid.*

²⁹ *Id.* at 16.

Occupancy Program; and (4) the Shelter Plus Care Program.³⁰ The programs all provide grant funding on a competitive basis to communities for permanent supportive housing, transitional housing and supportive services for the homeless.

Funds are also provided through Housing Opportunities for Persons with AIDS program, which provides funds for housing, social services and program planning for persons with acquired immunodeficiency syndrome. Assistance is also provided through the Native American Housing Assistance and Self-Determination Act of 1996, which provides block grants to Indian tribes for affordable housing programs.³¹

iii. Homeownership assistance

The federal government also provides assistance to help reduce the costs associated with homeownership, including mortgage insurance programs and products administered by the Federal Housing Administration.³² Other forms of assistance include: loan guaranties provided through the U.S. Department of Veterans Affairs (VA) for eligible veterans seeking assistance with homeownership; loans through the U.S. Department of Agriculture (USDA) Section 502 Guaranteed Rural Housing Loan Program for the purchase and repair of new and existing single family homes; and loans and grants through the Section 504 program for very low-income homeowners for home repairs and improvements.³³

The federal government has also provided a mortgage interest deduction to help promote homeownership, which allows homeowners to deduct the interest paid on their mortgage from their taxable income.³⁴

C. Affordable housing issues in Maine

i. Economic indicators

According to the *Measures of Growth in Focus 2011* report by the Maine Development Foundation (MDF), Maine's economic indicators have shown the following positive signs: private sector jobs and hours worked have increased; consumer spending has improved; and corporate profits are at record high levels.³⁵ However, the report raises concerns that the "economic recovery has been very slow, the federal stimulus funding and resulting inventory increases are waning, businesses and consumers remain anxious and cautious, and the job and housing markets remain weak."³⁶ According to the report, Maine has reflected regional and national trends where housing affordability has shown some improvement over the past two years. The report states that "while housing affordability in the United States as a whole has

³⁰ Id. at 17.

³¹ *Overview of Federal Housing Assistance Programs and Policy*, p. 19.

³² Id. at 21.

³³ Id. at 22.

³⁴ Ibid.

³⁵ Maine Development Foundation, *Measures of Growth in Focus 2011 report*.

³⁶ Ibid.

returned to 2000 levels, housing in Maine, and especially the Northeast U.S., remains less affordable than in 2000.”³⁷

The report raises concerns that burdensome housing costs cause individuals to “devote a higher percentage of their incomes to rent or mortgage payments, leaving less money to spend on other goods and services.” This trend has made it more challenging for people to afford housing in the communities where they are employed, “resulting in long commutes and sprawling development [that] impose additional costs on the individual and society, including greater traffic problems, highway maintenance costs, and reliance on fossil fuels.”³⁸

ii. *Affordable housing needs*

According to the Maine State Housing Authority (MSHA), “homeownership remains out of reach for many Maine people and difficult to maintain for others.”³⁹ The State continues to have a high number of low-income households in need of home repair, fuel assistance, weatherization, and home improvements to make homes lead safe.⁴⁰ Maine has the sixth oldest housing stock in the country, with the percentage of pre-1940 constructed homes almost twice the national average.⁴¹

Between 2000 and 2007, Maine’s median home price rose nearly 70 percent, yet median household income rose only 20 percent, with southern and coastal Maine having experienced the highest increase in housing prices in the State.⁴² Maine’s household income remains 10 percent below the national average, and ranks 35th highest in the country. One in three (roughly 132,000) homeowners in Maine have incomes below 80 percent of the State median income.

A large disparity exists between the incomes of those who rent and those who own homes in Maine, with one in three renters spending more than half of their incomes on housing costs.⁴³ In 2009, there were approximately 330,000 owners of conventional single-family housing and 148,500 renter households in Maine. Of those, almost one-half of homeowners earned more than 120 percent of AMI; while roughly one-half of renter households earned less than 50 percent of AMI.⁴⁴ Currently, nearly 56,000 affordable family rental units and 5,180 senior units are needed to fill demand. However, because there is often a stigma attached to affordable rental housing, local residents may oppose development of affordable rental housing in their communities.⁴⁵

³⁷Ibid. The report provides the following information on the affordability index: *The homeownership affordability index is the ratio of the home price that a Maine household at median income can afford to the actual median home price. A home price is considered to be affordable if no more than 28% of monthly gross income is needed to cover payment on a 30-year mortgage with a 5% down payment (including taxes, homeowners insurance, and private mortgage insurance). **The rental affordability index is the ratio of the rent that a Maine renter household with median renter household income can afford to the actual average rent for a two-bedroom apartment, including utilities. A rental is considered to be affordable if no more than 30% of gross monthly income is needed to cover the rent. In this index, median rental household income is used rather than median household income generally, because typically the median income of renter households is 25 to 35% less than households overall.

³⁸Ibid.

³⁹Maine State Housing Authority, *housing overview materials provided to Commission November 2011*.

⁴⁰Ibid.

⁴¹Ibid.

⁴²Ibid.

⁴³*Housing Affordability in Maine: Taking Stock*, by the Housing Affordability Initiative MIT Center for Real Estate, Draft final report March 2009, p. 9.

⁴⁴Id. at iv.

⁴⁵KVCOG report 2009.

Roughly 46 percent of homeowners with incomes that are less than 50 percent of AMI (22,800 owner households) pay more than 50 percent of their incomes on out-of-pocket, total housing costs.⁴⁶ There are also 15,600 older homeowners over the age of 55 that are “severely cost-burdened owner households,” with 9,000 of these households having fully paid mortgages. Despite the lack of a mortgage payment, these homes have high property taxes, utility and insurance costs that can “nearly equal the median cost of a primary mortgage.”⁴⁷

iii. Maine’s housing stock

According to the 2009 Massachusetts Institute of Technology (MIT) Center for Real Estate Housing Affordability Initiative study, which researched the housing needs in six regions of the State, Maine’s housing stock is not meeting the needs of many in the State for the following reasons.

- Maine’s rental housing stock has declined slightly since 2000.
- Maine’s owner-occupied housing stock has grown by 6 percent since 2000, but these new units are not situated near jobs and services.
- Aging housing stock often includes outdated and inefficient heating systems; inadequate plumbing, electrical systems and insulation; structural issues; and inadequate accessibility design.
- The amount of seasonal housing in the Mid-Coast and Downeast Zones of the State has significantly increased, however many of the towns in these areas have very little year-round rental housing.
- Affordable rental housing for lower incomes in the Greater Portland area is limited.
- There is a disconnect between dwelling size and household size, with more than 20,000 very low to moderately low-income households with severe housing affordability problems with one to two occupants that are in households with three or more bedrooms.⁴⁸

According to MSHA, older houses often have lead-based paint. Over 56,000 rental units and 55,000 single family homes, which equals nearly 21 percent of all housing units in Maine, are estimated to be occupied by low-income households facing lead-based paint risks.

iv. Workforce housing

Workforce housing is commonly understood as housing for working families that is “affordable to households earning 60 to 120 percent of the area median income” and that “fills the gap between market-rate housing that is increasingly unaffordable to live in and affordable housing that is supported by public-sector subsidy programs.”⁴⁹ Typically, workforce housing is considered housing for those working in the community providing essential services, including teachers, healthcare workers, police officers, fire fighters and others. Workforce housing policy

⁴⁶ *Housing Affordability in Maine: Taking Stock*, at 9.

⁴⁷ *Housing Affordability in Maine: Taking Stock* at 12.

⁴⁸ *Id.* at 2.

⁴⁹ The Terwilliger Center for Workforce Housing (<http://www.uli.org/ResearchAndPublications/TerwilligerCenterforWorkforceHousing.aspx>).

typically focuses on providing housing opportunities for working families that are in close proximity to their jobs.

According to the 2010 AVCOG report, an adequate supply of affordable housing has an impact on workforce development, community revitalization, and business attraction and expansion; however, the nature of employment in Maine and corresponding pay scales do not match the cost of housing. In many areas of the State, manufacturing jobs, which typically pay higher wages, have decreased while jobs in the service sector, with typically lower wages, have increased.⁵⁰

According to MSHA, between 2000 and 2007, median home prices in Maine rose nearly 70 percent while median household income rose roughly 20 percent. While median home prices have decreased since 2007 and housing affordability is improving, homeownership is out of reach for many and difficult to maintain for others.

v. *Energy costs*

Roughly 80 percent of Maine owner-occupied homes use oil to heat their homes.⁵¹ The 2009 MIT study found that the high cost of heating fuel disproportionately impacts low- and moderate-income homeowners in Maine, with “modest income households spendin[ing] over 15% of their incomes to heat their homes.”⁵² The 2010 GPCOG report also raised concerns that energy costs, including transportation, electricity and home heating, add another 15 to 20 percent to the true cost of housing.

vi. *Maine’s special needs and homeless populations*

Maine has a growing elderly population. Maine ranks third in the nation for people over the age of 65 and has the highest median age of all states.⁵³ In addition, according to the 2009 MIT study, many households in Maine have “severe housing affordability problems.” Of the 86,000 Maine residents with severe housing cost problems, almost 40 percent (or 34,00) are 55 years of age and older. Twenty-six percent (or 9,000) of those aged 55 years and older with severe housing affordability problems have fully paid mortgages and are therefore considered house-rich and cash-poor.⁵⁴

According to MSHA, by 2015, the need for family subsidized housing units is anticipated to have only a small percentage increase; however the need for senior units is anticipated to grow by approximately 75 percent to 8,200 units.⁵⁵ This reflects a national trend where the number of older U.S. citizens is projected to double from 35 million to more than 70 million between the years 2000 and 2030, resulting in 20 percent of the U.S. population comprised of adults 55 years of age and older.⁵⁶ Many elderly adults prefer to live independently for as long as they can, which may require access to any necessary caregiving resources, modifications to the home, as well as assistance with the activities of daily living and receiving services. By making

⁵⁰ GPCOG report for 2010; AVCOG report for 2010.

⁵¹ *Housing Affordability in Maine: Taking Stock* at 25.

⁵² *Id.* at 26.

⁵³ MSHA.

⁵⁴ *Housing Affordability in Maine: Taking Stock*.

⁵⁵ MSHA.

⁵⁶ *The State of the Nation’s Housing 2011, Joint Center for Housing Studies of Harvard University*.

modification to homes and providing access to aging resources, states are able to assist people with aging at home which can help states reduce the costs associated with nursing home care.

According to the *2011 Point in Time Survey* by MSHA, which provides data on the State's homeless population statewide on a single night, 950 people were homeless in Maine on January 26, 2011. In 2010, Maine homeless shelters provided 296,734 bed-nights to 7,342 individuals, with children representing almost 17 percent of the total homeless population. Serving the needs of those with special needs including those with mental illness, substance abuse, special needs children, individuals with physical disabilities, persons with AIDS, persons with mental disabilities and survivors of domestic violence continues to be a challenge for the State, with funds focused primarily on emergency shelters, rental assistance and other affordable housing options.

vii. Maine mortgage defaults and foreclosures

Foreclosure is the process by which the holder of a mortgage seeks to take an owner's property to satisfy debt. Maine has a judicial foreclosure process, which means that foreclosure actions must be filed in court. According to the Bureau of Consumer Credit Protection, before a foreclosure can begin, a lender must deliver a notice of default to the borrower; if the borrower does not pay the full amount in default plus interest and fees within 35 days, the lender may start the foreclosure process by filing the appropriate documents in court.

Maine's average time period for foreclosure falls somewhere in the middle compared to the other 19 states with a judicial foreclosure process.⁵⁷ Non-judicial states tend to have shorter foreclosure periods. Maine's foreclosure process (from "notice of default" to "writ of possession") can take a minimum of 120 days if the proceeding is uncontested. According to Realty Trac, a nationwide foreclosure reporting service, in cases in where consumers contest the process, Maine's foreclosure period (from "notice of default" to "writ of possession") is approximately 240 days.⁵⁸

Maine's mortgage foreclosure rate, while significantly lower than many states impacted the by the foreclosure crisis, is now slightly higher than the New England average. In response to the foreclosure crisis, the Maine Legislature established a foreclosure prevention program within the Bureau of Consumer Credit Protection in 2009 (see Public Law 2009, c. 402). The program provides an array of services for homeowners that are in default and in danger of foreclosure, that include a toll-free hotline, counseling resources available statewide, as well as with loan modifications, court mediation assistance and other forms of legal assistance.

According to the Bureau's most recent report, as of March 2011 Maine ranks 27th in the nation in total "past due" loans, 12th in seriously delinquent loans and fifth in the nation in "foreclosure inventory" (leading the list are Nevada and Florida).⁵⁹ According to the report, the rate of mortgage foreclosures across the country will "remain high until 2014 -2015, and there is no sign that Maine's situation will improve more rapidly than the national trend."⁶⁰

⁵⁷ Bureau of Consumer Credit Protection.

⁵⁸ Bureau of Consumer Credit Protection.

⁵⁹ Bureau of Consumer Credit Protection, August 24, 2011 Periodic Foreclosure Report to the Legislature, p. 4.

⁶⁰ Id. at 4.

D. Delivery of statewide affordable housing programs

The Maine State Housing Authority (MSHA) was established in 1969 by the Maine Legislature as an independent State agency responsible for the acceptance of federal funds or other housing assistance for the State in order to coordinate and encourage the provision of affordable housing in the State (see Title 30-A MRSA §4722 for the full list of statutory responsibilities).

MSHA, along with the local housing authorities, is responsible for administering affordable housing programs across Maine and within the municipalities. The Maine Housing Authorities Act (Title 30-A MRSA, chapter 201) governs the powers and duties of MSHA, as well as the responsibilities of the local housing authorities, in meeting the affordable housing needs of low-income families across the State. The Maine Affordable Housing Partnership Act, (Title 30-A MRSA, chapter 202) requires that all state agencies and independent state agencies cooperate with MSHA to “coordinate their resources and activities with those of the state authority to address the affordable housing crisis.”

According to the 2012 Maine Action Plan, MSHA was able to leverage bonds, tax credits, federal and state block grants, pass-through funding and competitive grants to provide assistance to over 90,000 households in 2010.

MSHA’s affordable housing programs can be categorized into six policy areas:

- a. Homeownership assistance (*First Home Program, Operation New Home Program, Disaster Assistance Loan Program, Indian Housing Mortgage Assistance Program*);
- b. Home improvement and home repair (*Home Repair, Lead Hazard Control Program, Weatherization Programs through the Community Action Program agencies, Central Heating Improvement Program, Disaster Assistance Loan Program*);
- c. Rental assistance (*Section 8 Housing Choice Voucher Program, Family Self Sufficiency Program, Stability Through Engagement Program, Subsidized Apartments*);
- d. Energy and heating assistance (*LIHEAP distributed through nine CAP agencies, Low Income Assistance Plan, Weatherization, Central Heating Improvement, Appliance Replacement Program*);
- e. Homeless assistance (*Emergency Shelter Funding and Stability Through Engagement Program*); and
- f. Housing development and construction services (*LIHTC, Rental Loan Program, Supportive Housing Program, Revolving Loan for Acquisition Program, Affordable Housing Tax Increment Financing, Loan Modification Program for multifamily properties, Subsequent Loan Program and Multifamily Home Energy Loan Program*).

MSHA works with the local public housing agencies to coordinate rental housing programs and the delivery of Section 8 vouchers. MSHA serves as the statewide Public Housing Authority, and is responsible for administering the Section 8 Homeownership Program and the Family Self-Sufficiency Program. MSHA also administers HUD Lead Paint Hazard Reduction Grant funds and coordinates with the Maine Department of Health and Human Services (DHHS) Center for Disease Control and Prevention to assist families with incomes at or below 80 percent AMI with removing lead-based paint from homes (see the MSHA website for a detailed list of all of MSHA's affordable housing programs and services at: <http://www.mainehousing.org/programs-services>).

E. State funding for affordable housing

The primary source of State funding for affordable housing is MSHA's Housing Opportunities for Maine (HOME) Fund, which is an Other Special Revenue program established by Title 30-A M.R.S.A. §4852. State law provides how money in the HOME Fund may be used. The HOME Fund receives funds from a tax that is imposed on each deed transferring title to real property in Maine and on the transfer of any controlling interest in an entity with a fee interest in real property in Maine, at the rate of \$2.20 for each \$500 or fractional part of the value of the real property, with certain exemptions. Of the total tax, 50 percent is imposed on the grantor (seller) and 50 percent is imposed on the grantee (purchaser). Ninety percent of the tax collected during the previous month is forwarded by each Registrar of Deeds to the State Tax Assessor. The remaining 10 percent is retained by the county and accounted for as reimbursement for services rendered in collecting the tax. Of the 90 percent that is forwarded to the State, 50 percent is credited to the HOME Fund; the remainder is credited to the General Fund.

According to the Office of Fiscal and Program Review (OFPR), beginning July 1, 2002, transfers of controlling interests in entities owning real property are subject to the same tax on the value of the real property owned. After deduction of the 10 percent county share, the remaining 90 percent of proceeds from the tax on the transfers of controlling interests accrues to the General Fund. Beginning June 15, 2010, real estate transfer taxes are imposed on the purchase and sale of foreclosure properties. That tax on the purchase and sale of foreclosed properties is dedicated to the Department of Professional and Financial Regulation (DPFR), Bureau of Consumer Credit Protection, and funds its statewide outreach and housing counseling services.

As demonstrated in OFPR's Tables 1 and 2 (see Appendix D), in fiscal years 2004 through 2013, a portion of the revenue attributable to the tax on transfer of real property that would ordinarily be credited to the HOME Fund is credited to the General Fund. According to OFPR, in fiscal year 2010, a portion of the Other Special Revenue funds began to accrue to Bureau of Consumer Credit Protection for the purpose of providing statewide outreach and housing counseling services together with MSHA. For further information on the history of the Real Estate Transfer Tax, see Appendix G.

In addition, beginning in 2008, the Legislature established a 25 percent historic preservation tax credit to be administered by the Maine Historic Preservation Commission, in consultation with the Department of Administrative and Financial Services, Bureau of Revenue Services. The tax credit, also known as the Substantial Rehabilitation Credit, established in Title 36 MRSA §5219-

BB, is intended to accompany the federal tax credit. As a result, the historic rehabilitation project must satisfy the federal requirements of the Federal Tax Incentive Program, administered by the National Park Service and qualify for the federal historic rehabilitation 20 percent tax credit (please see the National Park Services website for more information on the federal historic rehabilitation tax credit at: <http://www.nps.gov/tps/tax-incentives.htm>). The State tax credit can be increased to 30 percent if the historic rehabilitation project meets certain affordable housing guidelines that are established by MSHA. The Commission also administers a 25 percent State credit for smaller rehabilitation projects that do not meet the federal requirements and that have qualified rehabilitation expenditures between \$50,000 and \$250,000.

III. Findings and Recommendations

The Commission's deliberations were guided by the fundamental principle that affordable housing is critical to the well-being of all Maine families and that all Maine people should have access to decent and safe affordable housing. The Commission believes that government should always work to maximize the use of federal and State resources, particularly during this time of fiscal crisis and budget shortfalls. These efforts should include streamlining the State's regulatory processes for the development of affordable housing to help remove barriers in the development process for affordable housing and ensure that the State receive the maximum return on investment. It will be critical to increase the total up-front and long-term cost effectiveness of affordable housing programs by encouraging the reduction of State and local regulatory burdens whenever possible for affordable housing development across the State.

Due to the breadth and complexity of both federal and State housing laws and funding sources, the Commission determined that it had insufficient time to perform an in-depth review of certain aspects of housing policy, including the identification of cost drivers associated with affordable housing development. However, the Commission believes that affordable housing plays a vital role in helping to meet the essential needs of low- and moderate-income families, the elderly and special needs populations, as well as young adults within Maine communities. Affordable housing also has significant direct and indirect benefits for the State's economy and various industries, helping to spur economic activity, generate revenue at the State and local level, and assist with attraction and retention of employees for Maine's businesses. The State should support public-private partnerships, wherever possible, to find innovative and cost-effective solutions to Maine's housing needs.

Due to the importance of this issue to Maine's economy, the Commission believes the State Legislature should regularly review the following affordable housing issues: (1) current national trends in affordable housing policy; (2) the changing nature of mortgage foreclosures and how the needs of Maine homeowners and lending institutions have changed in light of the mortgage foreclosure crisis; (3) effective ways to meet the State's workforce housing needs, as well as the needs of Maine's seasonal communities; (4) federal, State and local weatherization programs that encourage building homes for cost efficiency and energy savings, and reduce operational costs over the short and long term; (5) policies that support the improvement and rehabilitation of Maine's existing housing stock to increase the number of safe, livable and energy-efficient homes available for low to moderate income renters and homeowners; (6) and cost drivers associated with the development of affordable housing.

Currently, State housing policy is under the jurisdiction of the Joint Standing Committee on Labor, Commerce, Research and Economic Development (LCRED). The Commission recommends that the Legislature recognize the overall importance of affordable housing policy issues to the State's economy by changing the current structure for legislative oversight of housing issues to have a specific committee of oversight with housing in the title of the committee, so that housing issues receive greater consideration and attention.

The Commission also identified the Housing Opportunities for Maine (HOME) fund as a critical resource for the State to provide supportive housing for the State's most vulnerable populations. The HOME Fund is used to leverage federal housing funds and private bond capital from investors to provide: emergency shelters; supportive housing; home repairs for low-income households; replacement of unsafe manufactured homes; assistance for the elderly to remain safe and warm in their homes; as well as funding to fill gaps in affordable rental developments and other initiatives. The Commission finds that resources should be used, whenever possible and cost-effective, to preserve existing multi-family housing stock. The Commission strongly recommends that the Legislature preserve the current share of the proceeds from the Real Estate Transfer Tax that are deposited into the HOME Fund and avoid diverting any portion of this revenue from the HOME Fund.

A. Multi-family Housing

Federal issues

- **Finding #1:** The Commission recognizes the significant impact that federal resources have on Maine's ability to provide affordable housing assistance to low-income families. Current federal budgetary constraints have raised concerns regarding the continuation of funding for federal housing assistance programs and incentives that the Commission believes are critical to the State's ability to serve those most in need such as: the Low Income Housing Tax Credit (LIHTC); the HOME Investments Partnerships program; the Community Development Block Grant (CDBG) program; rental assistance through Section 8 rental vouchers and other forms of supportive housing assistance for the elderly, homeless and those with disabilities [U.S. Department of Housing and Urban Development (HUD) Section 202 program, Homeless Assistance Grants and the Section 811 program]; mortgage lending assistance provided through the USDA Rural Housing Loan program, the U.S. Department of Veterans Affairs (VA) loan guaranty program; and other forms of federal incentives and assistance designed to meet the housing needs of low-income families. In addition, the federal government authorizes state and local governments to use the proceeds from the sale of tax-exempt private activity bonds to fund affordable housing activities in their respective states (using either mortgage revenue bonds to finance single-family home purchases, or multi-family housing bonds to finance the acquisition, construction, and rehabilitation of multi-family developments for low-income renters). The Commission finds that tax-exempt private activity bonds are a critical funding source for affordable housing in Maine. When tax-exempt private activity bond

proceeds are used to finance affordable housing, it can allow access to another valuable incentive, the Low Income Housing Tax Credit (the 4 percent credit).

- **Recommendation #1:** The Commission recommends sending a letter to Maine's federal delegation that advocates for the continuation and preservation of federal housing assistance programs and incentives at existing funding levels in recognition of the significant demand for affordable housing in Maine.
- **Recommendation #1-A:** The Commission also recommends sending a letter to Maine's federal delegation that advocates for the federal government to preserve the authority for the State and local governments to issue tax-exempt private activity bonds that allow the proceeds of the bond sale to finance mortgages for multi-family housing. The Commission recommends that the State and local governments promote the use of this valuable resource to the maximum extent possible.

State and local issues

- **Finding #1:** In order to streamline the regulatory process, the Maine State Housing Authority's (MSHA's) regulations for the production and preservation of affordable housing, to the maximum extent possible, should not be more restrictive than the applicable federal and State program requirements.
- **Recommendation #1:** The Commission recommends that MSHA review its regulatory requirements for affordable housing programs to ensure that they meet, but do not exceed minimum federal standards for these programs and are also consistent with State policy.
- **Finding #2:** The Commission finds that quality, multi-family housing is costly to develop due to the applicable building codes and life-safety requirements, and improvements that are necessary to ensure a positive quality of life for the individuals and families residing in these units. The Commission also finds that there are long-term benefits and cost savings related to energy efficiency building standards for these units, which may also include assisting MSHA with participation in the voluntary carbon market and energy conservation.
- **Recommendation #2:** The Commission recommends that MSHA explore innovative ways to provide rewards to developers of affordable housing who are able to assist MSHA with achieving energy efficiency savings or innovative solutions to reduce costs and maintain the benefits in affordable housing developments. This also includes assisting MSHA with their participation in the voluntary carbon market. The Commission also recommends that MSHA seek a balance using a proportional allocation of weatherization funds and program services for both single-family and multi-family housing on similar terms.

B. Single-family Housing

Federal issues

- **Finding #1:** The Commission is concerned about the high number of Maine homes that are in danger of foreclosure, and the impact this may have on the State's ability to meet the need for affordable housing. Federal resources are available for mortgage delinquency and foreclosure prevention counseling services, which the Commission finds are important in helping to address Maine's high rate of foreclosures.
- **Recommendation #1:** The Commission recommends continued support of federal funding for federal foreclosure prevention and delinquency counseling programs through agencies like HUD and *NeighborWorks America* (community-focused affordable housing programs and services).
- **Finding #2:** The Commission finds that changing employment patterns and economic conditions in Maine have significantly affected housing affordability. The shift from high-paying manufacturing jobs to lower-paying service sector employment means some Maine residents cannot afford to buy homes even though home prices have decreased in recent years. The Commission finds that providing workforce housing should be a focus of federal and State housing programs.
- **Recommendation #2:** The Commission recommends sending a letter to Maine's federal delegation advocating for changes in federal law that would allow MSHA to use its first-time homebuyer program for mortgage assistance to a broader array of Maine families that are in need of workforce housing.

State and local issues

- **Finding #1:** Maine does not receive dedicated federal funding for single-family housing. However, the federal government authorizes state and local governments to issue tax-exempt private activity bonds, and allows the proceeds to be used to fund affordable housing for first-time homebuyers. The Commission finds that this is a critical source of revenue for the State, which provides valuable mortgage assistance for first-time homebuyers and financing for the construction of affordable housing.
- **Recommendation #1:** The Commission recommends that the State resume the use of tax-exempt private activity bonds, as authorized by the federal government, in order to generate valuable revenue to finance mortgages for first-time homebuyers.
- **Finding #2:** The Commission finds that the judicial foreclosure process in Maine is a lengthy process and the State should support efforts to streamline the process, in order to assist those homeowners who are interested a more expeditious foreclosure process. Since June 15, 2010, real estate transfer taxes have been imposed on the purchase and sale of foreclosure properties, which, in turn, have been dedicated to the Department of Professional and Financial Regulation (DPFR) Bureau of Consumer Credit Protection to fund statewide outreach and housing counseling services. The Bureau oversees a foreclosure prevention program, which is responsible for operating a consumer hotline designed to

respond to consumers in danger of mortgage default and providing an array of foreclosure prevention counseling and complaint resolution services.

- **Recommendation #2:** The Commission recommends sending a letter to the Joint Standing Committee on Labor, Commerce, Research and Economic Development, with a copy to the Joint Standing Committee on Appropriations and Financial Affairs, advocating for the Legislature to continue State funding through the Real Estate Transfer Tax (from the purchase and sale of foreclosed properties) of the foreclosure prevention program at the Bureau of Consumer Credit Protection.
- **Finding #3:** The Commission finds that home rehabilitation and repair loans and grants to low-income homeowners may be the least expensive way to address many housing issues in both urban and rural areas. Helping homeowners address health and safety issues, through rehabilitation or weatherization, costs considerably less than new home construction.
- **Recommendation #3:** MSHA should continue to focus its efforts on providing low-interest home improvement loans to homeowners so that homes remain more affordable for the long term. The Commission recommends continued efforts to improve existing housing stock, such as the array of federal rehabilitation and weatherization programs that provide critical assistance to low-income families for energy efficiency improvements, energy assistance, appliance replacement, and other related goals [through the Low Income Home Energy Assistance Program (LIHEAP), Weatherization Assistance Program, Community Housing Improvement Program (CHIP), Appliance Replacement Program, Regional Employer-Assisted Collaboration for Housing (REACH)]. The Commission also recommends continued support of Efficiency Maine's Property Assessed Clean Energy (PACE) program that assists homeowners with obtaining low-interest weatherization home improvement loans (up to \$15,000) to help reduce energy costs and make homes more comfortable and affordable. These loans can either be paid back by the homeowner over a 15-year period or, if the home is sold, the loan can either be paid off or the remaining balance can be transferred in the loan to the next owner. The Commission also recommends grants in this area for low-income families who may be unable to qualify for a loan or afford loan payments.
- **Finding #4:** The Commission finds that zoning and land use requirements have a significant impact on the affordability of housing.
- **Recommendation #4:** The Commission recommends that the Joint Standing Committee on Labor, Commerce, Research and Economic Development and the Joint Standing Committee on State and Local Government review successful zoning and land use programs in other states that encourage single-family and multi-family developments, include plans to have an affordability component, including for workforce housing, and focus on smart-growth principles. The Commission recommends the use of mixed-use zoning ordinances that support the development of buildings that serve a combination of residential and commercial development purposes. The Commission also recommends the creation of a model voluntary incentive program for municipalities to adopt to help enhance the

development of affordable housing for moderate- and low-income families, especially in communities that are close to jobs and transportation where there is a significant demand for affordable housing.

- **Finding #5:** The Commission finds that manufactured homes offer a positive alternative for those in need of affordable housing and looking for a means of entry into homeownership.
- **Recommendation #5:** The Commission recommends that MSHA continue to provide low-interest loans for first-time homebuyers that are interested in purchasing a qualifying HUD-certified manufactured home.

C. Special Needs and the Elderly

Federal issues

- **Finding #1:** The Commission finds that there is a dramatic need for Section 8 vouchers across the nation and in Maine. There are significant waiting lists for subsidized housing and the Section 8 voucher program across the State and federal funding does not meet the significant demand for this type of housing in Maine. Information provided to the Commission by the Area Agencies on Aging and Maine's Ombudsman Program indicated that there are waiting lists for elderly subsidized housing that range from six months to three years in many areas across the State. Additionally, the Private Non-Medical Institutions (PNMIs) may undergo significant changes as they relate to Medicaid reimbursement, which may result in discharges for some residents from these facilities and a greater need for affordable, barrier-free housing.
- **Recommendation #1-A:** The Commission recommends that Maine's federal delegation prioritize funding to increase by four times the number of Section 8 housing vouchers than is currently provided to the State of Maine.
- **Recommendation #1-B:** In response to the changes in federal Medicaid reimbursement for PNMIs, the Commission recommends that the Department of Health and Human Services (DHHS) explore other programs that are non-PNMI based that could provide alternative sources of funding for affordable subsidized housing for the elderly and those with special needs.

State and local issues:

- **Finding #1:** The Commission finds that Maine's demographics and limited resources require significant planning in order to ensure that affordable housing projects meet the needs specific to each region of the State. Greater effort is needed to require coordination and creative solutions from the private and public sectors. Coordination between the developers of affordable barrier-free housing for Maine's special needs and elderly populations, and the providers of State services must be improved. The Commission finds that moving the elderly and individuals with special needs out of PNMI-based affordable housing has a

ripple effect on all parties involved. Moving affects the individuals in need of the housing and also affects MSHA when it has issued the debt to build the affordable housing and the developers that own and operate the housing. If funds are no longer provided by DHHS to the developer to pay for the mortgage and services provided for in this type of housing, then the mortgage is not paid and MSHA is then unable to pay the bond service, which could result in default.

- **Recommendation #1:** The Commission recommends that the Joint Standing Committee on Labor, Commerce, Research and Economic Development direct the creation of a stakeholder group convened by the Office of Elder Services with MSHA, in cooperation with the Office of Cognitive and Physical Disability Services, the Office of Adult Mental Health Services, Licensing and Regulatory Services, the Statewide Homeless Council and any other interested parties to develop a comprehensive, coordinated plan to address the housing and service needs of Maine's low-income elders, adults with disabilities and the homeless. The stakeholder group should consider the creation of memorandums of understanding between MSHA and DHHS regarding expectations for both groups in the development of housing and services. The Commission recommends that this stakeholder group further explore the idea that PNMI services be tied to the affordable housing unit, rather than to the individual who receives the services. This will ensure that the affordable housing development receives a more consistent flow of funding to cover the length of the mortgage required to finance these units, so valuable services and assistance can continue to be provided to the elderly and individuals with special needs over the long term.
- **Finding #2:** The Commission finds that one of MSHA's primary roles is to provide safe, affordable housing for special needs populations, but housing will fail if DHHS or some other resource does not provide reliable, long-term funding for supportive services that these populations need.
- **Recommendation #2:** The Commission recommends that DHHS prioritize funding to ensure that services will be available to low-income elderly homeowners and individuals with special needs so that they can remain independent in their own homes for as long as they are able to do so. The Commission also recommends that funding be provided to increase the availability of long term care services and support for low-income elderly and individuals with special needs so that they can remain independent in their homes within their communities.
- **Finding #3:** The Commission recognizes that Maine's population is aging and finds that many of Maine's seniors are facing significant housing affordability problems. The Commission finds that efforts to provide safe housing for the elderly, increase the quality of Maine's housing stock, and help reduce the State's overall nursing home cost are essential. The Commission finds that the rehabilitation and weatherization of older housing stock and multi-unit affordable housing projects for the elderly and other special needs populations are important steps toward addressing housing affordability issues.

- **Recommendation #3:** The Commission recommends continued support for programs across the State that provide services to assist low-income elderly homeowners to remain in their homes by providing home repairs, home accessibility modifications, energy conservation improvements, and other related services to help people age in place.
- **Finding #4:** The Commission finds that greater collaboration among State and federal agencies is critical to ensure the greatest return from limited resources. The Commission finds that the DHHS and the Department of Defense, Veterans and Emergency Management (DVEM) could benefit from collaborative efforts during the planning stage in the creation of multi-family affordable housing units for homeless veterans and recognizes the success of such collaboration during previous years. The Commission also finds that memorandums of understanding between agencies may not be sufficient to require collaboration over a significant period of time and that legislation could be necessary to ensure continued efforts in this area.
- **Recommendation #4-A:** The Commission recommends that a letter be sent to MSHA requesting that MSHA work with DVEM, Bureau of Veterans' Services and DHHS to maintain outreach efforts with homeless veterans and to collaborate in efforts to develop multi-family affordable housing units for homeless veterans.
- **Recommendation #4-B:** The Commission recommends a letter be sent to the Joint Standing Committee on Labor, Commerce, Research and Economic Development requesting that the Statewide Homeless Council provide an annual report to the Committee summarizing its progress and the collaboration that has occurred between the relevant State and local agencies and regional councils appointed to the Statewide Homeless Council (30-A MRSA § 5047). The Commission supports the Council's current efforts to coordinate homeless assistance services as well as funding resources. The Commission recommends that these efforts be strengthened with increased participation by the pertinent State agencies, including at least quarterly attendance at Council meetings by appointees.

APPENDIX A

Authorizing legislation: Resolve 2011, Chapter 108

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

H.P. 638 - L.D. 841

Resolve, To Establish the Blue Ribbon Commission on Affordable Housing

Sec. 1. Commission established. Resolved: That, notwithstanding Joint Rule 353, the Blue Ribbon Commission on Affordable Housing, referred to in this resolve as "the commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of the following 17 members appointed as follows:

1. Two members from the Senate, appointed by the President of the Senate. In making these appointments, the President shall give preference to a member of the Joint Standing Committee on Labor, Commerce, Research and Economic Development;

2. Two members from the House of Representatives, appointed by the Speaker of the House of Representatives. In making these appointments, the Speaker shall give preference to a member of the Joint Standing Committee on Labor, Commerce, Research and Economic Development;

3. The Executive Director of the Maine State Housing Authority or the executive director's designee;

4. The Commissioner of Economic and Community Development or the commissioner's designee;

5. One representative of a statewide group dedicated to providing affordable housing, appointed by the Speaker of the House;

6. One representative of a statewide nonprofit group advocating on behalf of seniors, appointed by the Speaker of the House;

7. One representative of an organization practicing conservation planning, appointed by the Speaker of the House;

8. One representative of a statewide real estate organization, appointed by the Speaker of the House;

9. One representative of a developer of affordable housing, appointed by the Speaker of the House;

10. One representative of a statewide construction organization, appointed by the President of the Senate;

11. One representative who is an advocate for low-income persons, appointed by the President of the Senate;

12. One representative of a company producing modular housing, appointed by the President of the Senate;

13. One representative of a statewide supportive housing developer, appointed by the President of the Senate;

14. One representative of a provider of services to the homeless, appointed by the President of the Senate; and

15. One representative of the board of trustees of the Midcoast Regional Redevelopment Authority, appointed by the President of the Senate.

The commission shall invite the state director of the Maine office of the United States Department of Agriculture or the director's designee to participate; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair of the commission and the first-named House of Representatives member is the House chair of the commission; and be it further

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business; and be it further

Sec. 5. Duties. Resolved: That the commission shall conduct a study of affordable housing policy in this State, review the status of housing in the State and develop a plan to maximize the investment of available resources and best meet the housing needs of the people of this State. The commission shall consider both single-family and multifamily housing.

1. In conducting its study, the commission shall:

A. Review current data and research on affordable housing among the New England states and nationally;

B. Assess the economic impact of affordable housing in this State;

C. Review innovative affordable housing programs in other states; and

- D. Identify regulatory barriers to affordable housing.
- 2. The commission shall make recommendations to:
 - A. Make the most effective use of state and federal resources, including leveraging private investment;
 - B. Make the most effective use of the Housing Opportunities for Maine Program as established in the Maine Revised Statutes, Title 30-A, section 4852 to provide access to housing that is decent, safe and sound;
 - C. Improve the economy through a measurable increase in construction of affordable housing;
 - D. Address the housing needs of Maine's elderly;
 - E. Address the severe affordable housing shortage that leaves thousands homeless each year;
 - F. Preserve existing affordable housing, including preserving access to energy efficiency programs; and
 - G. Reduce emergency service expenditures by state and local government by creating permanent supportive housing for the homeless.

The recommendations must, to the fullest extent possible, build upon current efforts and include an estimate of the costs associated with implementing them; and be it further

Sec. 6. Staff assistance. Resolved: That, notwithstanding Joint Rule 353, and upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the commission; and be it further

Sec. 7. Compensation. Resolved: That the members of the commission who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the commission. Other members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings; and be it further

Sec. 8. Report. Resolved: That the commission shall submit its report, including the recommendations required by section 5, together with any necessary implementing legislation, to the Second Regular Session of the 125th Legislature no later than February 15, 2012. The report must be presented to the Joint Standing Committee on Labor, Commerce, Research and Economic Development, which may report out a bill to the Second Regular Session of the 125th Legislature; and be it further

Sec. 9. Funding. Resolved: That the commission shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed; and be it further

Sec. 10. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Authorizes the expenditure of funding that may be received from outside sources for the Blue Ribbon Commission on Affordable Housing.

| OTHER SPECIAL REVENUE FUNDS | 2011-12 | 2012-13 |
|--|----------------|----------------|
| Personal Services | \$880 | \$0 |
| All Other | \$3,750 | \$0 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$4,630 | \$0 |

APPENDIX B

Membership list, Blue Ribbon Commission on Affordable Housing

Blue Ribbon Commission on Affordable Housing

Resolve 2011, Chapter 108

Thursday, October 20, 2011

Appointment(s) by the President

Sen. Nancy B. Sullivan
20 Westwood Drive
Biddeford, ME 04005
207 282-5594

Senate Members (LCED Committee)

Sen. Thomas Martin Jr.
1308 Clinton Ave.
Benton, ME 04901

Senate Members (LCED Committee)

Dennis Marble
334 Grove Street
Bangor, ME 04401

Representative of homeless service providers

Charles Newton
Ex. Dir., Penquis CAP
P.O. Box 1162
Bangor, ME 04402

Representative of advocates for low-income persons

Randall Poulton
P.O. Box 911
Bangor, ME 04402

Representative of statewide construction organization

Dana Totman
9 Sumac Drive
Brunswick, ME 04011

Board Member of the Midcoast Regional Redevelopment Authority

Julia Wilcock
14 Maine Street, Suite 301
Brunswick, ME 04011

Representative of statewide supportive housing developers

Wayne Wright
P.O. Box 88
Ellsworth, ME 04605

Representative of modular housing production

Appointment(s) by the Speaker

Rep. Andre E. Cushing III

P.O. Box 211
Hampden, ME 04444

House Members (LCED Committee)

Rep. Robert B. Hunt

128 Depot Street
Buxton, ME 04093

House Member (LCED Committee)

Kevin R. Bunker

17 Chestnut Street
Portland, ME 04101

Representative of developers of affordable housing

Brenda Gallant

196 Beechnut Hill Road
Wiscasset, ME 04578
207 621-1079

Representative of statewide nonprofit group advocating seniors

Jonathan P. LaBonte

P.O. Box 907
Lewiston, ME 04243

Representative of conservation planning

Patti E. Lawton

4 Springer Street
Richmond, ME 04357

Representative of a statewide real estate organization

Clinton Wesley Phinney JR.

P.O. Box 172
Waterboro, ME 04087

Representative of statewide group providing affordable housing

Commissioner, Dept. of Economic & Community Development

George Gervais

Commissioner, DECD
SHS 59
Augusta, ME 04333-0059
207 624-9800

Commissioner of designee

Director, Maine State Housing Authority

Dale McCormick

Maine State Housing Authority
353 Water Street
Augusta, ME 04330

Executive Director or designee

APPENDIX C
Federal Low Income Housing Tax Credit (LIHTC) and Home Investment Partnerships
Program (HOME) summary
and
Federal HOME program – HOME investment partnerships summary

**BLUE RIBBON COMMISSION ON AFFORDABLE HOUSING
SUMMARY OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT (LIHTC) &
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)***

| Program Name | Purpose of Program | How Program Works | Program Requirements |
|---|--|---|--|
| <p>The Low Income Housing Tax Credit (LIHTC) Program</p> | <ul style="list-style-type: none"> ○ Based on <u>Section 42 of the Internal Revenue Code</u>, was enacted by Congress in 1986 to provide the private market with an incentive to invest in affordable rental housing and to generate equity capital for the construction and rehabilitation of affordable rental housing. ○ However, tax credits alone are not always sufficient to allow developers to reduce the debt burden to a point where project costs can be paid solely through affordable rents allowed by LIHTC regulations. ○ Often, developers must seek additional subsidies to make a low-income housing project feasible. | <ul style="list-style-type: none"> ○ Federal housing tax credits are awarded to developers of qualified projects. ○ Developers then sell these credits to investors to raise capital (or equity) for their projects, which reduces the debt that the developer would otherwise have to borrow. Because the debt is lower, a tax credit property can in turn offer lower, more affordable rents. ○ Provided the property maintains compliance with the program requirements, investors receive a dollar-for-dollar credit against their Federal tax liability each year over a period of 10 years. The amount of the annual credit is based on the amount invested in the affordable housing. ○ The IRS allocates housing tax credits annually to designated state agencies-which in turn award the credits to developers of qualified projects. Each state is limited to a total annual housing tax credit allocation of \$1.75 per resident, with only the first year of the 10 years of tax credits counting against the allocation. ○ States allocate housing tax credits through a competitive process. The state allocating agency must develop a plan (Qualified Allocation Plan) for allocating the credits consistent with the state's Consolidated Plan. ○ Federal law requires the plan to give priority to projects that (a) serve the lowest income families; and (b) are structured to remain affordable for the longest period of time. Federal law also requires that 10% of each state's annual credit allocation be set aside for projects owned by nonprofit organizations. ○ Maine's allocation for 2011: \$2,830,380 | <ul style="list-style-type: none"> ○ To be eligible a proposed project must: be a residential rental property. ○ Commit to one of two possible low-income occupancy threshold requirements: (1) 20-50 Rule: At least 20% of the units must be rent restricted and occupied by households with incomes at or below 50% of the <u>HUD-determined area median income</u> (adjusted for household size); or (2) 40-60 Rule: At least 40% of the units must be rent restricted and occupied by households with incomes at or below 60% of the <u>HUD-determined area median income</u> (adjusted for household size). ○ Restrict rents, including utility charges, in low-income units. ○ Operate under the rent and income restrictions for 30 years or longer, pursuant to written agreements with the agency issuing the tax credits. ○ State QAPs often encourage applicants to provide more than the minimum number of affordable units, and greater than the minimum level of affordability. Credits are available only for the affordable units. As a result, many applications provide for 100 % of the units to be affordable, and many applications provide for some units to be affordable well below 50 % of AML. ○ Requires a minimum affordability period of 30 years (i.e., a 15-year compliance period and subsequent 15-year extended use period). Some states require a longer affordability period for all LIHTC properties, and other states may negotiate longer affordability periods on a property-specific basis. ○ Developers may claim tax credits directly/ most sell the |

Prepared by the Office of Policy and Legal Analysis

*Source: United States Department of Housing and Urban Development

**BLUE RIBBON COMMISSION ON AFFORDABLE HOUSING
SUMMARY OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT (LIHTC) &
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)***

| Program Name | Purpose of Program | How Program Works | Program Requirements |
|---|---|---|---|
| <p>Home Investment Partnerships Program (HOME)</p> | <ul style="list-style-type: none"> o The largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. Allocates annually approximately \$2 billion among the States and hundreds of localities nationwide. Designed to reinforce several important values and principles of community development: its flexibility empowers people and communities to design and implement strategies tailored to their own needs and priorities; its emphasis on consolidated planning expands partnerships among all levels of government & private sector in the development of affordable housing; its technical assistance activities and set-aside for qualified community-based nonprofit housing groups builds the capacity of these partners. o Program regulations are at 24 CFR Part 92. | <ul style="list-style-type: none"> o HOME's requirement that participating jurisdictions (PIs) match 25 cents of every dollar in program funds mobilizes community resources in support of affordable housing. o Funds awarded annually as formula grants to PIs. HUD establishes HOME Investment Trust Funds for each grantee, providing a line of credit the jurisdiction may draw upon as needed. This flexibility allows States and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, or rental assistance or security deposits. o Grants to states and units of general local government to implement local housing strategies designed to increase homeownership and affordable housing opportunities for low and very low-income Americans. o HOME funds can be used for a variety of housing activities, according to local housing needs, including: tenant-based rental assistance; housing rehabilitation; assistance to homebuyers; and new construction of housing. Funds may be used for site acquisition, site improvements, demolition, relocation, and other necessary and reasonable activities related to the development of non-luxury housing. | <p>tax credits to raise equity capital for their housing project. The developer can sell the tax credits: Directly to an investor; or o a syndicator, who assembles a group of investors and acts as their representative.</p> <ul style="list-style-type: none"> o Tax credits can be claimed annually over a 10-year period by the property owner. However, the developer typically syndicates the credits (sells the rights to the future credits in exchange for up-front cash). o All housing developed with HOME funds must serve low- and very low-income families. For rental housing, at least 90 % of the families must have incomes at or below 60 % of the area median income (AMI); the remaining 10 % of the families benefited must have incomes at or below 80 % of AMI. Homeownership assistance must be to families with incomes at or below 80 % of the AMI. o Rental units must have rents that do not exceed the applicable rent limits. For projects with 5 or more HOME-assisted rental units, 20 % of the units must be rented to very low-income families. o HOME-assisted homebuyer and rental housing must remain affordable for a long-term affordability period, determined by the amount of per-unit HOME assistance or the nature of the activity/ also subject to resale or recapture requirements. o Participating jurisdictions must provide a 25 % match of their HOME funds & must set aside at least 15 % of their allocations for housing to be owned, developed, or sponsored by community housing development organizations. |

Prepared by the Office of Policy and Legal Analysis

*Source: United States Department of Housing and Urban Development

The HOME Program: HOME Investment Partnerships

Grants to states and units of general local government to implement local housing strategies designed to increase homeownership and affordable housing opportunities for low and very low-income Americans.

Nature of Program: Participating jurisdictions may use HOME funds for a variety of housing activities, according to local housing needs. Eligible uses of funds include tenant-based rental assistance; housing rehabilitation; assistance to homebuyers; and new construction of housing. HOME funding may also be used for site acquisition, site improvements, demolition, relocation, and other necessary and reasonable activities related to the development of non-luxury housing. Funds may not be used for public housing development, public housing operating costs, or for Section 8 tenant-based assistance, nor may they be used to provide non-federal matching contributions for other federal programs, for operating subsidies for rental housing, or for activities under the Low-Income Housing Preservation Act.

All housing developed with HOME funds must serve low- and very low-income families. For rental housing, at least 90 percent of the families benefited must have incomes at or below 60 percent of the area median income; the remaining 10 percent of the families benefited must have incomes at or below 80 percent of area median income. Homeownership assistance must be to families with incomes at or below 80 percent of the area median income. Each year, HUD publishes the applicable HOME income limits by area, adjusted for family size.

HOME-assisted rental units must have rents that do not exceed the applicable HOME rent limits. Each year, HUD publishes the applicable HOME rent limits by area, adjusted for bedroom size. For projects with five or more HOME-assisted rental units, 20 percent of the units must be rented to very low-income families.

HOME-assisted homebuyer and rental housing must remain affordable for a long-term affordability period, determined by the amount of per-unit HOME assistance or the nature of the activity. HOME-assisted homebuyer housing is also subject to resale or recapture requirements.

Participating jurisdictions must provide a 25 percent match of their HOME funds. Participating jurisdictions must also set aside at least 15 percent of their allocations for housing to be owned, developed, or sponsored by community housing development organizations.

Applicant Eligibility: States, cities, urban counties, and consortia (contiguous units of local governments with a binding agreement).

Funding Distribution: HOME funds are allocated using a formula designed to reflect relative housing need. Forty percent of the funds are allocated to states, and 60 percent is allocated to units of general local government. States are automatically eligible for HOME funds and receive either their formula allocation or \$3 million, whichever is greater. Local jurisdictions eligible for at least \$500,000 under the formula (\$335,000 in years when Congress appropriates less than \$1.5 billion for HOME) also can receive an allocation. Communities that do not qualify for an individual allocation under the formula can join with one or more neighboring localities in a legally binding consortium whose members' combined allocation would meet the threshold for direct funding. Other localities may participate in HOME by applying for program funds made available by their State. Congress set aside a pool of funding, equivalent to the greater of \$750,000 or 0.2 percent of appropriated funds, which HUD distributes among insular areas.

Legal Authority: Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 *et seq.*). Regulations are at 24 CFR part 92.

APPENDIX D

**Office of Program and Fiscal Review Summary regarding the Real Estate Transfer Tax:
2004 - 2013**

**SUMMARY OF THE
REAL ESTATE TRANSFER TAX
36 M.R.S.A. c. 711-A**

A tax is imposed on each deed transferring title to real property in Maine and on the transfer of any controlling interest in an entity with a fee interest in real property in Maine, at the rate of \$2.20 for each \$500 or fractional part of the value of the real property. There are certain exemptions.

Of the total tax, 50% is imposed on the grantor (seller) and 50% is imposed on the grantee (purchaser). Ninety percent of the tax collected during the previous month is forwarded by each Registrar of Deeds to the State Tax Assessor. The remaining 10% is retained by the county and accounted for as reimbursement for services rendered in collecting the tax.

Of the 90% that is forwarded to the State, 50% is credited to the Maine State Housing Authority's Housing Opportunities for Maine (HOME) Fund, an Other Special Revenue program established by 30-A M.R.S.A. §4853. The remainder is credited to the General Fund. Beginning July 1, 2002, transfers of controlling interests in entities owning real property are subject to the same tax on the value of the real property owned. After deduction of the 10% county share, the remaining 90% of proceeds from the tax on the transfers of controlling interests accrues to the General Fund. Beginning June 15, 2010, real estate transfer taxes are imposed on the purchase and sale of foreclosure properties. That tax on the purchase and sale of foreclosed properties is dedicated to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, and funds its statewide outreach and housing counseling services. In fiscal years 2004 through 2013, a portion of the revenue attributable to the tax on transfer of real property that would ordinarily be credited to the HOME Fund is credited to the General Fund as follows in the table below:

| Fiscal Year | Transfer to General Fund from HOME Fund share |
|--------------------|--|
| 2004 | \$7,500,000 |
| 2005 | \$7,500,000 |
| 2006 | \$7,500,000 |
| 2007 | \$7,687,067 |
| 2008 | \$5,000,000 |
| 2009 | \$8,062,414 |
| 2010 | \$3,320,000 |
| 2011 | \$3,720,000 |
| 2012 | \$3,830,000 |
| 2013 | \$3,950,000 |

Real Estate Transfer Tax

| Fiscal Year | General Fund | Other Special Revenue Funds | | Total All Funds |
|-------------|--------------|-----------------------------|--------------------------------------|-----------------|
| | | HOME Fund | Bureau of Consumer Credit Protection | |
| 2001 | \$9,048,762 | \$8,279,699 | \$0 | \$17,328,461 |
| 2002 | \$9,208,923 | \$9,208,497 | \$0 | \$18,417,421 |
| 2003 | \$10,770,668 | \$10,758,160 | \$0 | \$21,528,828 |
| 2004 | \$22,196,221 | \$6,216,471 | \$0 | \$28,412,693 |
| 2005 | \$24,113,439 | \$8,881,845 | \$0 | \$32,995,284 |
| 2006 | \$24,595,580 | \$9,356,426 | \$0 | \$33,952,006 |
| 2007 | \$22,206,638 | \$7,281,652 | \$0 | \$29,488,291 |
| 2008 | \$17,465,240 | \$7,154,896 | \$0 | \$24,620,136 |
| 2009 | \$17,184,746 | \$602,680 | \$0 | \$17,787,426 |
| 2010 | \$12,181,181 | \$5,418,751 | \$1,583,850 | \$19,183,782 |
| 2011 | \$13,815,942 | \$5,089,783 | \$713,796 | \$19,619,521 |

Revenue Notes – Real Estate Transfer Tax

As noted above, the Real Estate Transfer Tax accrues to the General Fund and to the HOME Fund. Year-end accrual of the Real Estate Transfer Tax began at the end of fiscal year 2000. In fiscal year 2010, a portion of the Other Special Revenue funds began to accrue to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection for the purpose of providing statewide outreach and housing counseling services together with the Maine State Housing Authority.

History – Real Estate Transfer Tax

The Real Estate Transfer Tax was originally established by P& S 1967, c. 154. Originally enacted as 36 M.R.S.A. c. 712, it was repealed and replaced by c. 711-A. The tax applied to the transfer of title to real property at a rate of \$1 for transfers between \$251 and \$500 and 55¢ for each \$500 or fraction thereof, payable by the grantee. Ninety percent of the total revenue collected was forwarded to the State for deposit in the General Fund, and the remaining 10% was retained by the county. PL 1975, c. 572 repealed and replaced those provisions with a Real Estate Transfer Tax at a rate of 55¢ for each \$500 or fraction thereof, payable by the grantor. Eighty-five percent of the total revenue was forwarded to the State for deposit in the General Fund, and the remaining 15% was retained by the county. The tax was amended by PL 1983, c. 859 to increase the rate of tax from 55¢ to \$1.10 per \$500, and to change the distribution of total revenues to 90% for the State and 10% for the counties. PL 1985, c. 381 amended the tax to make both the grantee and grantor subject to the tax, and to distribute the 90% of total revenue forwarded to the state equally between the General Fund and the HOME fund.

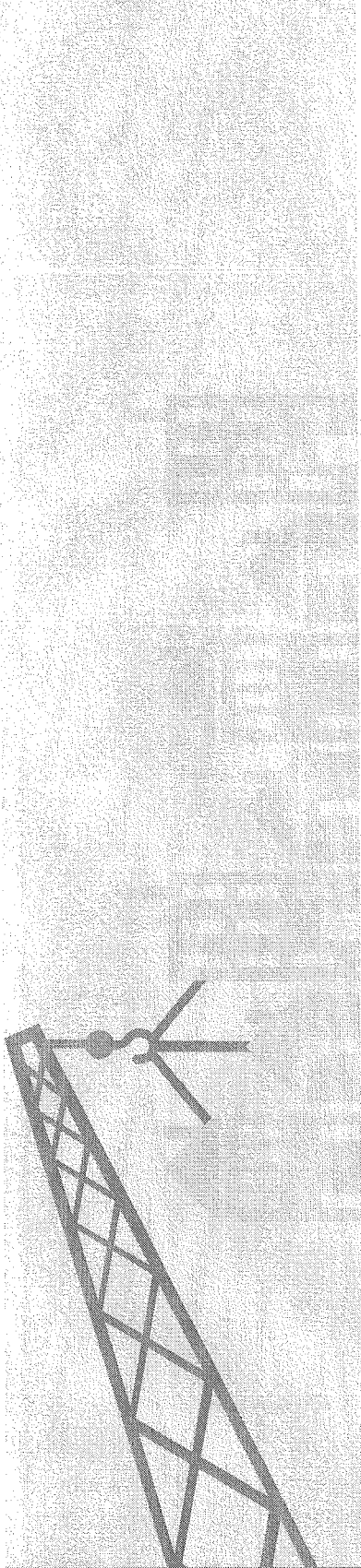
The distribution of the 90% of total revenue forwarded to the state has been amended several times. PL 1991, c. 591, Part P, PL 1991, c. 622, Part K, PL 1993, c. 6, Part D, PL 1993, c. 410, Part C, PL 1995, c. 368, Part K, PL 1997, c. 24, Part C and PL 1997, c. 759 all modified the

distribution between the General Fund and the HOME Fund. PL 2001, c. 439, Part XXX provided for a transfer of up to \$200,000 of the General Fund portion of revenues to the Community Forestry Fund. PL 2001, c. 559, Part I repealed the Community Forestry Fund transfer provisions and added transfers of controlling interests to the tax beginning July 1, 2002. Revenue generated by the transfer of controlling interests is credited to the General Fund and is not subject to distribution to the HOME fund.

The most recent changes to distribution of the State's share include (a) PL 2003, c. 20, Part V, PL 2005, c. 12, Part H, which amended the distribution for fiscal years 2004 through 2007 to provide that the General Fund portion of the 90% paid to the State is \$7,500,000 plus 50% of the remaining revenue, and (b) PL 2005, c. 644, which amended the distribution in fiscal year 2007 to provide a General Fund share of \$7,687,067 plus 50% of the remaining revenue. PL 2007, c. 240, Part H amended the distribution for fiscal years 2008 and 2009. PL 2007, c. 539, Part WW amended the distribution formula through fiscal year 2013. PL 2009, c. 372, Part E established the Maine Energy, Housing and Economic Recovery Program within the Maine State Housing Authority, and authorized the use of the General Fund portion of the Real Estate Transfer Tax to pay for the Maine State Housing Authority's obligations relating to bonds issued or planned to be issued, beginning in fiscal year 2012. PL 2009, c. 402, effective June 15, 2009 applied the real estate transfer tax to foreclosed properties and dedicated the revenue from the tax on these properties to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, in order to provide housing counseling services and mortgage assistance to financially distressed home owners.

APPENDIX E

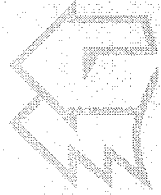
**Maine State Housing Authority (MSHA) report to the Maine Legislature on HOME fund
uses 2009-2010 (dated April 2001)**



Housing Opportunities for Maine Fund (HOME Fund)

Report to the Maine Legislature on HOME Fund uses 2009-2010

April 2011



MaineHousing
Maine State Housing Authority

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HOME Fund Expenditures by Program Area
2002 – 2010 and 2009 – 2010.....4

HOME Fund Revenue and Expenses 2002 – 20105

HOME Fund Investments 2009 – 20106

"I had no money. I had no job...I was in a very desperate situation. I've never asked for help. They helped me. I can't thank them enough. I can't thank them enough at all."

Pamela Vanorse, Rockland



Pamela received short term rental assistance through a temporary American Recovery and Reinvestment Act program. The program was so successful in preventing and ending homelessness that MaineHousing will use HOME Fund money to continue it.

"MaineHousing has been a great partner. They not only help finance our emergency shelter, they also work with us on longer term solutions."

Dean Lachance, Executive Director,
Bread of Life, Augusta



Bread of Life operates an emergency shelter, soup kitchen, 17 transitional housing units, 64 permanent housing units, case management services, and a donation center. It's developing a day care center and life care center.

"I'm very pleased with my new home, and it helped me out a lot. I am still overwhelmed."

Michelle Lyon, Augusta



Michelle participated in the program that replaces pre-1976 mobile homes with new energy efficient models. The program targeted the homes with the highest energy usage. An independent analysis found the new models would save the owners an average of more than \$2,000 a year in energy costs.

What is the HOME Fund

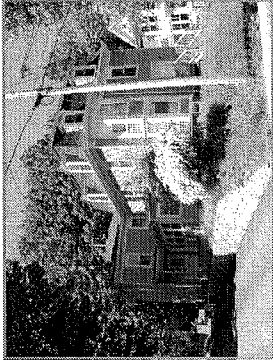
Maine's Legislature and Governor created the Housing Opportunities for Maine (HOME) Fund in 1983 to provide a flexible financial resource to help Maine Housing address the state's affordable housing needs. To provide a steady and dedicated revenue source, the Legislature doubled the Real Estate Transfer Tax.

We do not use any HOME Fund money for salaries or administrative costs of the agency, but its flexibility enables us to use it for a wide variety of housing initiatives.

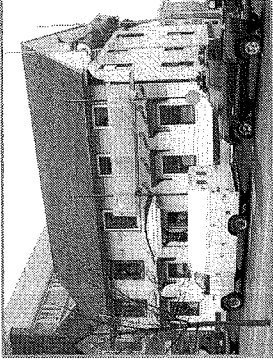
Maine Housing's policy has been to use the HOME Fund to meet the most pressing housing needs that cannot be financed with federal housing funds, and these needs change over time. When mortgage interest rates were high, for example, we used the HOME Fund to reduce rates and provide down payment assistance. In 2009-10, interest rates were low and we were able to use resources we created with our revenue bonds to meet the upfront payment requirements. That means we were able to focus more HOME Fund resources on home repair and energy conservation.

At other times we have used the HOME Fund to finance supportive housing for people with special needs. We also use it to fill critical funding gaps in the financing of affordable rental housing projects, and to fund initiatives where we have no other funding sources, such as making housing more accessible. We often use it to leverage federal housing resources, such as providing \$1 million to leverage a \$3 million federal grant to make homes safe from lead paint hazards.

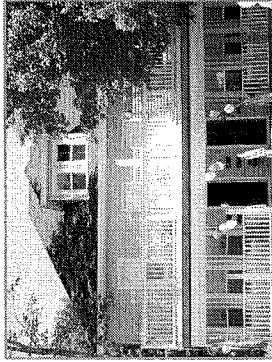
Over the past 10 years we have used the most HOME Fund (see graph on page 4) to help create housing for our most vulnerable population, people who are homeless. This is in part because of the need, and in part because it is either prohibited or impractical to use most federal housing resources to finance housing for them.



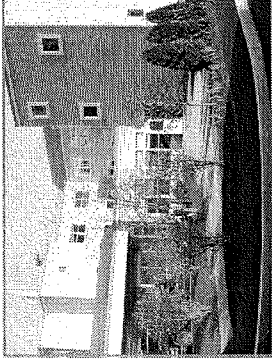
Washington Street Transitional Housing in Rumford, providing 2 units of housing for people who were homeless.



My Sister's Place under construction in Biddeford. It provided jobs while being rehabilitated, and now provides 4 units of housing for people who were homeless.



44 Fairfield Street in Oakland, providing 6 units of housing to people who were homeless.



Pleasant Crossing in Waterville, providing 21 units of affordable housing to area senior residents.

Title 36, Section 4641-N of the Maine Revised Statutes requires that the "Maine State Housing Authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation by April 1, 1987, and each 2 years thereafter. The report shall cover the 2 prior fiscal years of the authority and shall identify the amount of revenues under this chapter that have been credited to the Housing Opportunities for Maine Fund and the manner in which those funds have been used."

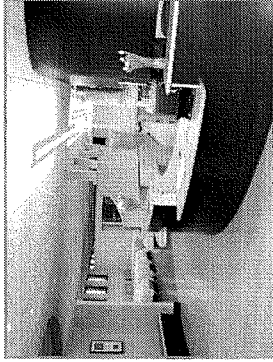
HOME Fund 2009-10

The HOME Fund helps MaineHousing invest in Maine's economy. We use the HOME Fund to leverage federal housing funds and private bond capital from investors, and use the revenue to serve our most vulnerable residents. Over the past two years we have used HOME Fund money for such things as:

- 🏠 Supporting Maine's network of emergency shelters
- 🏠 Preventing homelessness
- 🏠 Providing supportive housing
- 🏠 Making homes safe from lead paint hazards
- 🏠 Repairing homes of low-income residents
- 🏠 Replacing old, unsafe mobile homes
- 🏠 Keeping seniors safe and warm in their homes
- 🏠 Funding accessibility improvements
- 🏠 Filling funding gaps in affordable rental developments

Many of these initiatives generate employment in Maine's housing industry while providing affordable housing that working people need. In order for Maine to add jobs, it must have housing that workers can afford; affordable housing is where a good job spends the night.

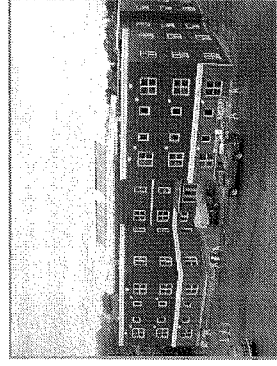
The HOME Fund represents only a small portion of our overall funding, but it plays a critical role because it is not restricted by unnecessary red tape. We can – and do – use it where it is needed most to benefit Maine residents.



Interior of Florence House in Portland, which provides 25 affordable units and 15 safe haven beds for women who were homeless.



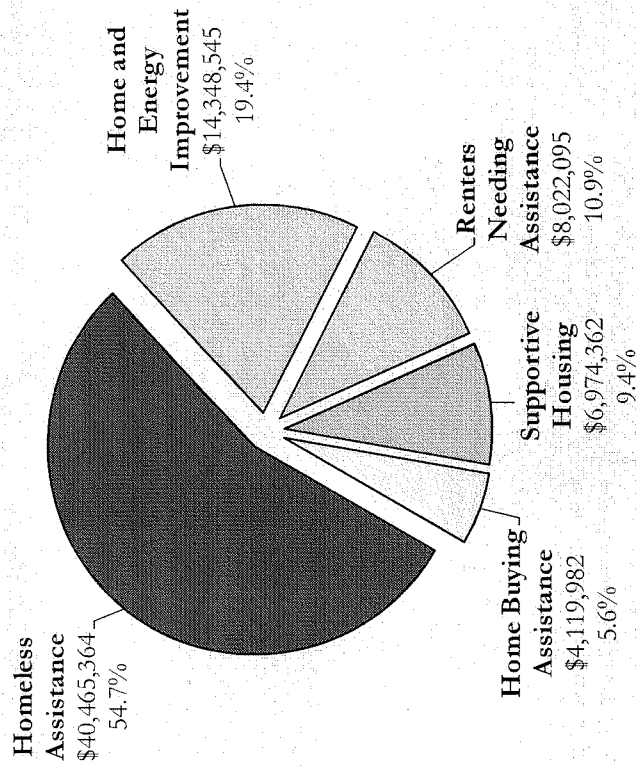
In 2009-10 MaineHousing invested nearly \$2 million of HOME Fund money in home repairs and nearly \$1 million in weatherization. Both improve Maine's housing and create jobs for Maine workers.



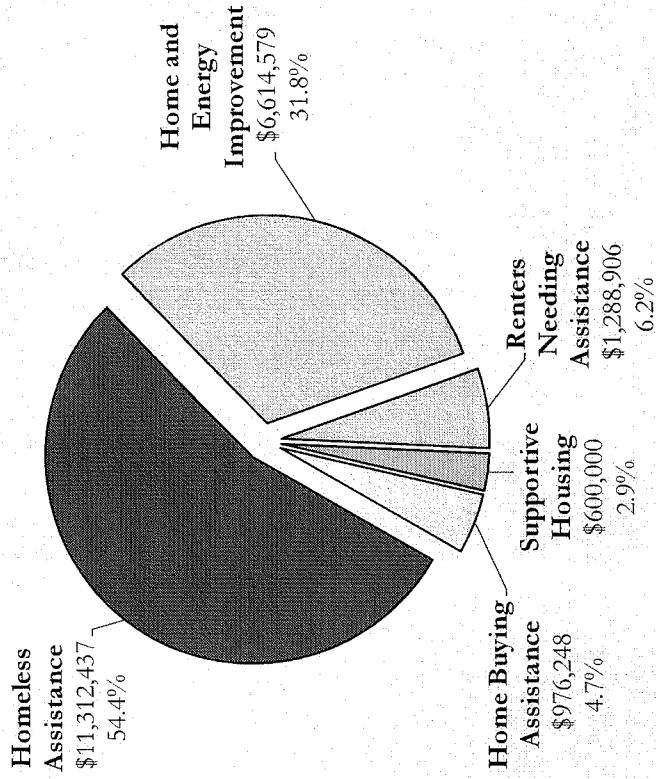
Market Square Commons in Houlton, providing 28 units of affordable housing to area seniors. It is the first development creating new affordable housing in Aroostook County in 15 years.

**HOME Fund Expenditures by Program Area
2002 – 2010 and 2009 – 2010**

2002 – 2010

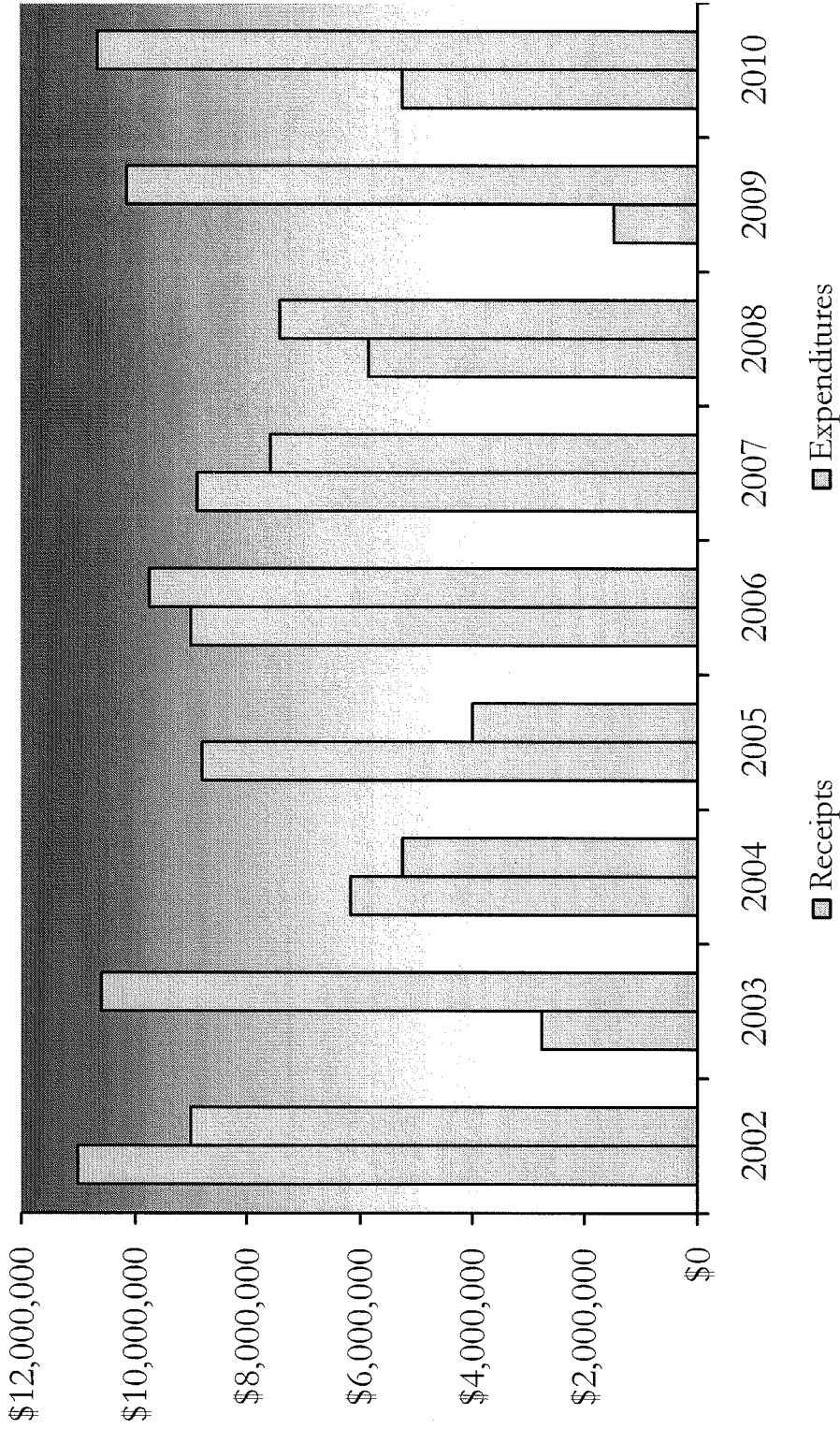


2009 – 2010



**HOME Fund Revenue and Expenses*
2002 - 2010**

**Maine Housing HOME Fund Receipts and Expenditures
(Cash Basis)
2002 - 2010**



* 2009-10 show high levels of expenditures because several affordable rental developments were completed. We committed HOME Fund money to these developments in earlier years, when we approved the housing, but we do not actually spend the HOME Fund money until the housing is completed.











HOME Fund Investments 2009 – 2010

| Program Area | Program Description | HOME Fund Investment 2009 | HOME Fund Investment 2010 | Households / Units Served 2009-2010 | Leveraged or Matching Funds |
|--|--|----------------------------------|------------------------------------|--|-----------------------------|
| Home Buying Assistance Maine HOPE Program | A foreclosure prevention program that defers up to four mortgage payments for MaineHousing borrowers who lose their jobs. | \$364,228 | \$251,580 | 185 households | \$18,321,244 |
| MADI Program Family Development Accounts ¹ | Down payment and closing cost assistance for low income borrowers. Matching funds to help low-income families save for a down payment on a home. | \$150,000 | \$60,440 \$150,000 | N/A 59 | \$0 \$78,372 |
| Home Improvement Lead Hazard Control Program | Matching funds for a federal grant that makes low income homes lead safe. | \$137,174 | \$381,557 | 106 households | \$1,600,000 |
| Home Repair Program Home Retro Program Energy Assistance | Help with necessary home repairs for low-income homeowners. Home accessibility improvements for people with physical disabilities. | \$889,338 \$496,482 | \$1,091,319 \$478,739 | 200 households 64 households | \$638,912 \$38,912 |
| State Weatherization Program | Low income home energy audits and weatherization to build on a program funded through a \$500,000 grant from the Energy & Carbon Savings Trust. | \$637,550 | \$315,489 | 313 households | \$500,000 |
| Keep ME Warm Program | Training classes in winterizing homes for local energy emergency response teams. | \$57,541 | \$129 | 10 classes on winterizing homes | \$0 |
| Mobile Home Replacement | Financing for low-income homeowners to replace pre-1976 mobile homes with new ENERGY STAR [®] rated replacement homes. | \$1,206,420 | \$922,841 | 52 households | \$0 |
| Homeless Assistance Funds to Supplement SOS | Shelter operating funds to supplement those provided by the Shelter Operating Subsidy (SOS) program. | \$1,826,000 | \$1,857,000 | 7,332 homeless individuals - 296,675 bednights in 2010 | \$0 |
| Emergency Winter Response Program Shelter Repair Program Homeless Prevention Program Family Stabilization Program | Funding for homeless service providers to temporarily shelter people who are homeless off site when area emergency shelters are full. Grants to emergency shelters for life-safety and other repairs. Funding for Pine Tree Legal Assistance to prevent illegal evictions. Assistance to help families at risk of homelessness remain in their current housing. Additional funding (TANF) provided by the Maine Department of Health & Human Services. | \$1,964 \$75,000 \$100,000 | \$27,543 \$140,000 \$151,000 | 121 people 1 shelter N/A 520 households | \$0 \$0 \$1,000,000 |
| Homeless Development Projects | Financing for construction of permanent or transitional housing for people who are homeless. | \$3,148,212 | \$3,985,718 | 67 units | \$4,479,078 |
| Renters Needing Assistance Rental Development Projects | Financing for construction of affordable rental housing for low-income families and seniors. | \$446,521 | \$832,385 | 79 units | \$8,496,421 |
| Brunswick Naval Air Station Supportive Housing Supportive Housing | Seed money for a \$100,000 housing study. Financing for construction of housing for people with special needs. | \$10,000 \$600,000 | | 5 units 151 units | \$90,000 \$0 |
| Totals | | \$10,146,430 | \$10,645,740 | 8,952 households/people | \$35,242,939 |

¹n/a means non-applicable.

¹MaineHousing contributes funds which are used as a 4 to 1 match dollars saved by low income households saving for down payment for a home.

Board of Commissioners

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-  Donald H. Gean, Executive Director of York County Shelter Programs, Inc.
-  Sheryl Gregory, real estate broker with Homestead Realty in Winthrop
-  Carol Kontos, Associate Professor of English at the University of Maine at Augusta
-  Elizabeth Mahoney, self-employed policy consultant
-  Dale McCormick, Director of MaineHousing
-  Nikki McLean, board member of the Maine People's Alliance
-  Bruce Poliquin, Treasurer of State of Maine
-  Mark Samson, Vice President, Senior Retail & Mortgage Banking Officer for Mechanics Savings Bank



Maine State Housing Authority

353 Water Street, Augusta, Maine 04330
1-800-452-4668, TTY 1-800-452-4603

www.mainehousing.org

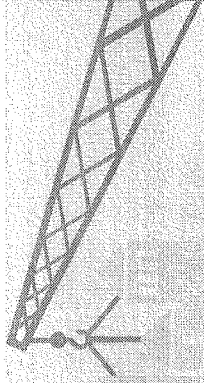
For more information,
contact Peter Merrill,
Communications & Planning Director
207-626-4608

MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability, or familial status in the admission or access to, or treatment or employment in, its programs, and activities. MaineHousing will provide appropriate communication auxiliary aids and services upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances:

Louise Patenaude, Equal Access Coordinator, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number 1-800-452-4668 (voice in state only), 207-626-4600(voice), 1-800-452-4603 (TTY in state only), or 207-623-2985 (TTY).



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APPENDIX F
Federal requirements in the Internal Revenue Code for the Qualified Action Plan (QAP)
summary

**Federal requirements in the Internal Revenue Code for the
Qualified Allocation Plan**

TITLE 26--INTERNAL REVENUE CODE Section 42

(m) Responsibilities of housing credit agencies

(1) Plans for allocation of credit among projects

(A) In general

Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless—

- (i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147 (f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,
- (ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project,
- (iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and
- (iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

(B) Qualified allocation plan

For purposes of this paragraph, the term "qualified allocation plan" means any plan—

- (i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,
- (ii) which also gives preference in allocating housing credit dollar amounts among selected projects to—
 - (I) projects serving the lowest income tenants,
 - (II) projects obligated to serve qualified tenants for the longest periods, and
 - (III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan, and
- (iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(C) Certain selection criteria must be used

The selection criteria set forth in a qualified allocation plan must include

- (i) project location,
- (ii) housing needs characteristics,
- (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan,

- (iv) sponsor characteristics,
- (v) tenant populations with special housing needs,
- (vi) public housing waiting lists,
- (vii) tenant populations of individuals with children,
- (viii) projects intended for eventual tenant ownership,
- (ix) the energy efficiency of the project, and
- (x) the historic nature of the project.

(D) Application to bond financed projects

Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

(2) Credit allocated to building not to exceed amount necessary to assure project feasibility

(A) In general

The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

(B) Agency evaluation

In making the determination under subparagraph (A), the housing credit agency shall consider—

- (i) the sources and uses of funds and the total financing planned for the project,
- (ii) any proceeds or receipts expected to be generated by reason of tax benefits,
- (iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries, and
- (iv) the reasonableness of the developmental and operational costs of the project.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas. Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

(C) Determination made when credit amount applied for and when building placed in service

(i) In general A determination under subparagraph (A) shall be made as of each of the following times:

- (I) The application for the housing credit dollar amount.
- (II) The allocation of the housing credit dollar amount.
- (III) The date the building is placed in service.

(ii) Certification as to amount of other subsidies Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

(D) Application to bond financed projects

Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B).

APPENDIX G

Background summary on assisted living facilities in Maine

Assisted Living

Background

Assisted living facilities (ALFs) were initiated in the 1990's with private foundation grants and state and federal funds. These facilities were piloted in Maine through a unique partnership between MaineHousing and Maine DHHS. The primary purpose of these facilities is to provide elders with affordable assisted living, and provide the necessary support services to delay or alleviate the need for a nursing home, and allow them to age in place. In 2004, the Dept. of Health and Human Services submitted a proposal to the federal Centers for Medicare and Medicaid Services to amend the state Medicaid plan and transitioned the financing of the ALF services to Mainecare. This amendment was never approved, and after spending several months exploring possible solutions, DHHS sent a letter in early 2009 to CMS stating the state's decision to withdraw the proposed 2004 ALF amendment to the state Medicaid plan. Effective July 1, 2009, DHHS repealed Section 6 of the Mainecare benefits Manual through which the ALF's had been funded.

In Maine, there are 7 ALFs with a total of 215 apartments. They are located in Sanford, Saco, Portland, Camden, Augusta, Bangor and Millinocket. This Assisted Living service model includes a housing component with rent paid directly to the property owner and a service component through which meals, personal care, medication administration, homemaker services, and an emergency response system are provided by the service provider. Resident eligibility for services is determined by an assessment, which at this time is conducted by Goold Health Systems. A resident of the facility may require all or some of these services. The provider can only bill for the services authorized by Goold. The residents are charged a co-pay and cost share by the service provider based on their income and expense. Approximately half of the residents receive Section 8 rental assistance. On the service side the ALF's are licensed by the State of Maine, and contract for service funding through Maine's Office of Elder Services.

Since Section 6 Mainecare was repealed in July 2009, the following funding for the 7 Assisted Living facilities is currently in place.

- \$1.1 million annually in state funds was allotted by the 124th Legislature which was authorized to be utilized flexibly for services for residents such as meals not covered by other funding sources. This funding was allocated among the 7 ALF's and administered through contracts with OES.
- Federal funding generated by a new level of care in Section 96 of the Mainecare Benefits Manual, which covers personal care services, homemaking, and medication management.
- State funding generated by a new level of care in the Home-Based Care program (Section 63 of the Office of Elder Services Policy Manual) for eligible residents who are not financially eligible for Mainecare. Section 3 also covers personal care services/homemaking and medication management.

**Dept of Health and Human Services
Office of Elder Services
7 Affordable Assisted Living Facilities
Demographics (combined)
Snapshot as of 11/03/11**

Gender: Female 171 Male 55 Total residents 226

Ages: (45-55) 7 (55-65) 22 (65-75) 26

(75-85) 65 (85-95) 86 (95 or older) 9

Combined # of apartments for all facilities: 215

Average vacancy rate: 1.6%

Total # of residents in all facilities: 220

Average number of hours of ADL or IADL services provided per resident per month: 17

Average number of meals served per month: 839

Average annual income of residents: \$13,353.00

Total # of housing applicants on waiting lists: 92

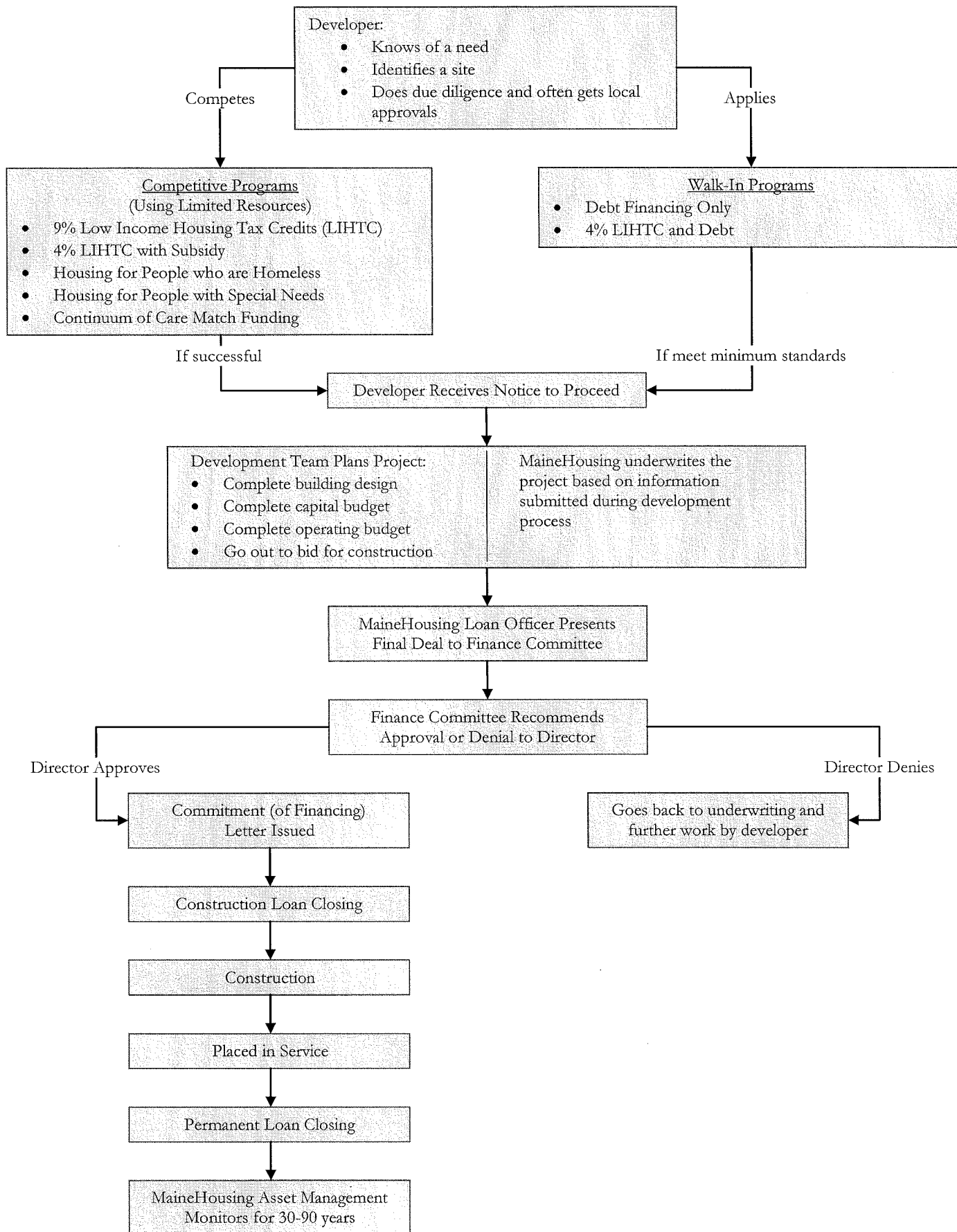
Average length of residency in the property: 3.9 yrs.

*****One resident is 34 years old**

APPENDIX H

Flowchart of multifamily development process (provided by MSHA)

General Overview of Multifamily Development Process



Prepared by MSHA

APPENDIX I

Definitions

DEFINITIONS

1. **Community Development Block Grant (CDBG) program (42 USC § 5301-5321):** Federal program administered by HUD that provides funds to entitlement communities for the following purposes: the purchase and rehabilitation of properties for specific purposes; demolition of blighted properties; community services aimed at reducing crime and drug use; and housing counseling assistance.
2. **Homeownership affordability index:** According to the *Measures of Growth in Focus 2011* report by the Maine Development Foundation, this is defined as the ratio of the home price that a Maine household at median income can afford to the actual median home price. A home price is considered to be affordable if no more than 28 percent of monthly gross income is needed to cover payment on a 30-year mortgage with a 5 percent down payment (including taxes, homeowners insurance, and private mortgage insurance).
3. **HOME Investment Partnerships program (HOME) (42 USC §12701 et seq.):** Federal program administered by HUD which provides federal block grants to states to implement local housing strategies that increase homeownership and affordable housing opportunities for low-income housing for families that meet the following goals: homeowner rehabilitation, homebuyer assistance, rental construction and rehabilitation, and tenant-based rental assistance. States and localities use the funds for a variety of rental and homeownership activities, such as constructing new units, rehabilitating existing units, offering downpayment assistance, and providing tenant-based rental assistance. Federal HOME funds require that every dollar be matched by 25 cents of state, local or private funds.
4. **Judicial foreclosure process:** Maine is one of 20 states that are judicial foreclosure states, meaning that foreclosure actions must be filed in court. The foreclosure process (from Notice of Default to Writ of Possession) can take as short a time as 120 days in cases where the consumers do not file an answer with the court, and the judge enters a default judgment (*i.e.*, in an uncontested proceeding). In cases in which a consumer contests the process, Maine's foreclosure period (from Notice of Default to Writ of Possession) is approximately 240 days.
5. **Low income:** Federal criteria specify a family income that is 80 percent of local area median income (AMI).
6. **Low Income Housing Tax Credit (LIHTC) (26 USC § 42):** Enacted by Congress in 1986 to provide the private market with incentives to develop affordable rental housing and to generate equity capital for the construction and rehabilitation of affordable rental housing. The federal tax credits are allocated by the Internal Revenue Service (IRS) each year to state agencies, who then allocate the credits on a competitive basis through a Qualified Allocation Plan (QAP) to developers of qualified projects. The program offers two tax credit rates: a "9 percent" rate and a "4 percent" rate. For properties with the "9 percent" rate, annual housing credits are *roughly* equal to 9 percent of the qualified basis (the dollar amount that is eligible for housing tax credits each year over a 10-year period). For properties with the "4 percent" rate, annual credits are *roughly* equal to 4 percent of the qualified basis each year over a 10-year period.
7. **Rental affordability index:** According to the *Measures of Growth in Focus 2011* report by the Maine Development Foundation, this is the ratio of the rent that a Maine renter household with median renter household income can afford to the actual average rent for a two-bedroom apartment, including utilities. A rental is considered to be affordable if no more than 30 percent of gross monthly income is needed to cover the rent. In this index, median rental

household income is used rather than median household income generally, because typically the median income of renter households is 25 to 35 percent less than households overall.

8. **Very low income:** Federal criteria specify a family income that is 50 percent or less than the local area median income (AMI).
9. **Workforce housing:** According to the *Terwilliger Center for Workforce Housing*, this is commonly understood as housing for working families that is “affordable to households earning 60 to 120 percent of the area median income” and that “fills the gap between market-rate housing that is increasingly unaffordable to live in and affordable housing that is supported by public-sector subsidy programs.” Typically, workforce housing is considered housing for those working in the community providing essential services, including teachers, healthcare workers, police officers, fire fighters and others.

