



**LD 787: An Act to
Comprehensively Address
Homelessness and Affordable
Housing in Maine**



Best Practices Used in Maine and Throughout the United States Regarding
Affordable Housing Program Design and Innovative Financing Structuring
Opportunities to Increase Development in Maine

A Report to the Maine Legislature's Committee on Labor and Housing
by the Maine State Housing Authority (MaineHousing)

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Background

In 2021, the Maine Legislature's Joint Standing Committee on Labor and Housing voted "ought not to pass" on LD 787, "An Act to Comprehensively Address Homelessness and Affordable Housing in Maine" sponsored by Rep. Victoria Morales. In lieu of a resolve, the committee sent a letter to MaineHousing requesting information on:

- Best practices used in Maine and throughout the United States regarding affordable housing program design and innovative financing structuring opportunities to increase development in Maine
- Opportunities to educate existing and potential affordable housing developers of MaineHousing programs
- Suggested legislation or policy priorities

Affordable Housing Program Design and Financing

At MaineHousing, we believe access to and availability of quality affordable housing suitable to the needs of Mainers is essential for communities to thrive. As Maine's Housing Finance Authority (HFA) we administer affordable housing programs statewide. Our programs range from helping Maine families purchase their first home to providing assistance with energy costs and weatherization. Funding mostly comes from federal programs and as such is governed by federal rules and regulations.

State funding comes primarily through the HOME Fund, which is fed by half of the real estate transfer tax that is remitted to the state by each municipality. This source is utilized for specific programs or to address other housing-related issues. The question asked by this committee is more focused on financing options to increase development of affordable housing in Maine. There are two main types of housing: multifamily (typically renter) and single family (typically owner).

Multifamily

Projects that expand the supply of affordable multifamily housing are what typically come to mind when thinking about affordable housing programs. MaineHousing administers the [Low Income Housing Tax Credit \(LIHTC\)](#), which is, in the United States, the main financing tool available for this type of housing.

The LIHTC program has two components, competitive and non-competitive credits. The competitive credit, known as the 9% LIHTC, is allocated to each state by the Internal Revenue Service in a limited quantity according to a funding formula. It is in turn allotted to projects in Maine under a competitive process through the state's [Qualified Allocation Plan \(QAP\)](#), MaineHousing's annual program rule. It is highly sought after by developers because it provides around 70% of the funding required for a project.

The non-competitive credit, known as the 4% LIHTC, is available to any qualifying project and provides around 30% of the funding needed to build a project.

Beginning in 2021, thanks to the work of the 129th Legislature, a new financing tool became available to MaineHousing and its developer partners, the [State Low Income Housing Tax Credit \(SLIHTC\)](#). When layered with the non-competitive federal tax credit, the two credits provide a similar level of funding to the tax credits awarded through the QAP, increasing the number of units that can be financed annually and reducing the time projects remain on the waitlist. In its first two years in use, SLIHTC has helped finance 300 units of housing, 271 of which are affordable in six projects. State tax credits are a recognized national best practice. The presence of this credit in Maine is an extraordinarily important feature of our state's affordable housing finance landscape. Along with other efforts, such as the recently passed senior housing bond, it has allowed MaineHousing's construction pipeline to expand to record levels.

It bears mentioning here that the availability of subsidy, whether in the form of tax credits, state-funded bonds or some other source, is the key to developing affordable housing. MaineHousing has more than adequate capacity to provide loans, but without substantial available subsidy, these projects cannot go forward, especially in a period of high real estate costs such as we are experiencing now.

In addition to serving residents at the lower income levels, the Low Income Housing Tax Credit can also address workforce housing. MaineHousing defines workforce housing as housing affordable to households at 60% to 120% of Area Median Income (AMI). The U.S. Department of Housing and Urban Development (HUD) calculates AMI based on geography and household size. A table of the most recent rent and income guidelines is available on our website.¹ Rent for a one-bedroom unit affordable at 60% AMI ranges from \$720 in some rural counties to \$1,185 in York County, with qualifying income of \$26,880 and \$44,280 respectively. As noted above, the last two funding rounds for LIHTC and SLIHTC have provided financing for 300 units of housing. 271 of these are affordable to households at 50% to 60% AMI, and 29 are at market rate.

MaineHousing recognizes that energy conservation, besides providing environmental value, is one of the best ways to manage operating costs. Controlling operating costs is the best way to ensure long-term solvency of affordable residential developments that typically generate limited additional operating surpluses. This is acknowledged in our 2021 Quality Standards and Procedures Manual. This manual provides a reference for the design and construction of multifamily housing development under MaineHousing's LIHTC and RLP programs. Its stated minimum energy conservation standards are based on the International Energy Conservation Code (IECC) 2021, exceeding the state minimum code based on IECC 2015.⁴ This standard and the increase in total development cost for projects receiving Passive House certification allowed under the QAP shows best practice in building efficient buildings to address climate change.

MaineHousing has also been committed to maximizing building technology improvements beyond energy efficiency to assure that the units it produces are both cost effective and sustainable. One example of this was the use of cross-laminated timber (CLT) in the construction of an elevator shaft at a senior housing project in Portland. This material, which could be produced in Maine, served in the place of concrete in this application offering both an environmental and a cost advantage. Keeping abreast of new techniques is an important best practice.

Single Family

According to MaineHousing's Homeownership Housing Facts and Affordability Index, in 2017, a median income household could afford the median home sold in nine of Maine's 16 counties. By 2021, affordability had declined to a point where this was possible in only a single county.³ Over the same time period, the median home sold rose in price from \$197,000 to \$295,000, making homeownership more unaffordable, and in turn providing a significant new headwind for first-time home buyers. While the rise in real estate prices is a well-documented national macroeconomic phenomenon, its effects in Maine have been severe.

MaineHousing's flagship program is the [First Home Loan Program](#), which provides below market rate mortgages to qualified first time home buyers. Down payment assistance is available for homebuyers who take a homebuyer education class, which has been shown to reduce the likelihood of foreclosure. The First Home Loan Program is funded through the sale of tax-exempt bonds. MaineHousing passes the interest savings along to the homebuyer.

An unusual and important aspect of our operations is that MaineHousing keeps the mortgages in its own portfolio rather than selling them, which provides financial stability to MH and consistent servicing to the homeowner. Many states simply sell their loans to the secondary market, trading long term benefits (ongoing interest income) for short term benefits (a one-time fee). MaineHousing's bonds are rated AA+.

In an ongoing effort to increase the supply of moderately-priced homes available to Mainers, MaineHousing recently launched the [Affordable Homeownership Program](#). Funding comes from the American Rescue Plan Act, through the Maine Jobs & Recovery Plan. The Affordable Homeownership Program is intended to help lower the costs to developers building single family developments by providing zero percent interest forgivable loans. This funding will help to offset the rising costs to developers for land acquisitions, labor, and materials, resulting in a lower purchase price for new homeowners.

Developers receiving Affordable Homeownership Program funding will be required to set aside homes in the project as Affordable Homeownership Units. An Affordable Homeownership Unit is a lot with a new (never previously occupied), owner-occupied single family home that will be sold to homebuyers who earn up to 120% of AMI, and meet other criteria outlined in the program guide.

This is a flexible program that was designed in order to work in both rural and urban areas. In addition to traditional subdivisions, the program supports and encourages the development of condominiums and other higher-density forms of housing.

Affordable Housing Best Practices

MaineHousing as an agency and its employees are members of many organizations where ideas and best practices are shared on a regular basis. The largest such organization is the [National Council of State Housing Agencies \(NCSHA\)](#). This national association provides MaineHousing and other state

housing finance agencies (HFAs), the opportunity to share ideas and best practices through regular conferences, information sharing sessions and affinity groups focusing on specific programs or topics.

NCSHA's *Housing Credit Connect* conference explores effective strategies for developing, managing, and preserving the housing credit portfolio during a time of unprecedented need for affordable housing. MaineHousing staff participate in this conference to stay abreast of best practices on managing and administering LIHTC. At their *Annual Conference*, NCSHA presents HFAs with their [Annual Awards for Program Excellence](#). MaineHousing has been recognized for its work many times over the years (including in 2021, when we received an award for the new state Low Income Housing Tax Credit program). For us, the most valuable resource from this program is the opportunity to read and learn from the award applications from other states.

Many of the most important factors in housing affordability are peripheral to the housing itself, but critical in terms of getting new projects built and online. Municipalities, through zoning and land-use policies, play a large role in developing or hindering affordable housing. If a project cannot get necessary permits its ability to be awarded, financing is moot. MaineHousing has been actively involved over the past year in the commission created by LD 609, which has been looking comprehensively at ways to reform Maine's zoning and land use policies. If the measures proposed by the commission are ultimately adopted, it will put Maine into a highly favorable position compared to most other states.

Research has shown that the following 10 action items (most of which have been considered by the LD 609 Commission) increase the supply of housing when municipalities adopt them:³

1. Establish by-right development
2. Tax vacant land or donate it to non-profit developers
3. Streamline or shorten permitting process and timeliness
4. Eliminate off-street parking requirements
5. Enact high-density multifamily zoning
6. Allow accessory dwelling units
7. Establish density bonuses
8. Employ inclusionary zoning
9. Establish development tax or value capture incentives
10. Use property tax abatements

Adopting these principles to fit unique local needs provides benefit to the community by increasing the ease to which an individual can develop their own land or a professional can build a multifamily project.

MaineHousing participates in discussions with any group or individual interested in how to utilize our programs or how to improve them. Our website provides program resources for individuals and partners from how to apply for a mortgage to housing data a municipality can use in their Comprehensive Plan. Our [Building Community Together](#) page provides best practice guides for local leaders, developers, and interested parties.

MaineHousing's Developer Partners

There are time and resource barriers to becoming an affordable housing developer, but there are some pragmatic ways to address access on a smaller scale. The availability of more developers does not necessarily equate to more units. There are constraints in funding, supply chain and labor that impact the number of projects and units completed. MaineHousing has the privilege of working with numerous socially-minded development partners to increase the number of affordable multifamily units in Maine. These partners are well educated in our programs and real estate development in general.

There are three key barriers to becoming an affordable housing developer utilizing LIHTC:

1. Development and management experience and capacity. A developer's team must have sufficient knowledge, experience and capacity to adequately design, develop, complete, maintain, manage and operate LIHTC Projects and provide related services, such as accounting, tax and legal advice and resident service coordination.
2. Comfort with a general partner/limited partner structure of ownership. This structure is required of anyone seeking to use federal tax credits.
3. High soft costs, specifically in the pre-development stage. This can make it difficult for smaller or younger firms to provide the cash flow needed to move past the early stages of a project.

The majority of affordable housing funding comes through our LIHTC and RLP programs. MaineHousing's development partners and their agents must have substantial experience with the program's federal rules and regulations. We cannot trade experience for expediency. The general partner/limited partner ownership structure is not how most other commercial real estate deals are done, yet that must be utilized in order to take advantage of the tax credits.

There are, however, opportunities for smaller developers to get started in the affordable housing business. Any housing market should have housing on a continuum that serves the different housing needs of those in their community. While the focus is on single family or larger multifamily developments, the financing of smaller projects from non-profit and community based organizations can have a large impact in a community. MaineHousing has developed several programs to help small non-profit and community organizations who are interested in developing smaller scale affordable housing. Examples of the programs are:

- [Pre-development Loan Program](#): provides interest-free capital to nonprofit entities developing affordable supportive housing projects and PHAs preserving certain federally-assisted housing projects to cover mortgageable pre-development costs.
- [Community Solutions Grant](#): provides matching grants of up to \$500,000 to municipalities, community-based ethnic organizations and Native American tribes in Maine that are taking a lead role in creating or preserving affordable housing in their communities. The grants are flexible and locally driven; each successful community determines how best to address their affordable housing needs.

There are opportunities in the coming years to bring on more developers of affordable housing at a smaller scale. Maine's Homeless System Re-Design Initiative calls for adding over 2,500 units of rapid rehousing units.⁵ Some of MaineHousing homeless service provider partners will need to become housing developers and managers. Community Land Trusts in Maine are other community organizations that are interested in affordable housing. A notable example of such a land trust can be found here in Maine, in Kennebunk. MaineHousing has adopted national best practice standards for our mortgages to purchase homes on land owned by land trusts.

MaineHousing's Recommendations to the Legislature

The Legislature can take two specific actions to support MaineHousing in expanding access to more affordable multifamily housing.

First, **make permanent the State Low Income Housing Tax Credit (SLIHTC)**. This would have the largest impact of anything the Legislature could do to increase the supply of affordable multifamily housing in Maine. Since implementation of the program in 2021, it has provided equity to six projects with 300 units of which 271 are affordable. The majority of these projects would not have received necessary funding to proceed in the development process without the SLIHTC. In the absence of action this program will expire in eight years.

Second, **fully allocate to MaineHousing its statutorily defined portion of the real estate transfer tax in the biennial budget**. The real estate transfer tax is the main source of funds for the Housing Opportunity for Maine Fund (the HOME Fund), MaineHousing's most flexible resource. State HOME is used to provide subsidy for multifamily development, down payment assistance, home repair, homeless shelter operations and the Community Solutions Grant. Additionally, it has been used during the pandemic to front the cost of hotels as non-congregate shelter before being reimbursed by the federal Emergency Management Agency.

Over the years, the Legislature and various administrations have diverted in excess of \$80 million from the HOME Fund to balance budgets or to fund other programs. These are resources that could have been used to directly improve Maine's housing situation.

In addition to the specific actions proposed above, the Legislature should continue to push policies to increase participation in the building trades and decrease costs of materials. We certainly urge the Legislature to promote development of the construction workforce through directed training programs at the community college level. Regarding materials, rising costs and availability of inputs further constrain the creation of additional housing supply. Encouraging the use of Maine forest-based building products is critical for both supply chain and sustainability reasons

References

CSH. 2021. *Maine Homeless System Re-Design Initiative*. https://www.mainehousing.org/docs/default-source/policy-research/research-reports/2021-homeless-system-re-design-initiative---final-report.pdf?sfvrsn=b71d8915_2.

MaineHousing . 2021. *2021 Quality Standards and Procedures Manual*.
https://www.mainehousing.org/docs/default-source/development/construction-services/2021-quality-standards-and-procedures-manual.pdf?sfvrsn=dc258915_6.

MaineHousing. 2021. *Homeownership Housing Facts and Affordability Index for Maine Counties*.
<https://www.mainehousing.org/policy-research/housing-data/housing-affordability-indexes>.

—. n.d. *Rent & Income Charts*. <https://www.mainehousing.org/charts/rent-income-charts>.
White House. 2016. "Housing Development Toolkit." September.
https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/images/Housing_Development_Toolkit%20f.2.pdf.

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