

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1360

H.P. 982

House of Representatives, April 26, 1989

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative NADEAU of Saco.

Cosponsored by Representative GWADOSKY of Fairfield, Representative CARROLL of Gray and Representative TARDY of Palmyra.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Creating a Homestead Tax Exemption for Maine Residents.



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

3 36 MRSA c. 105, sub-c. IV-A is enacted to read:

5 SUBCHAPTER IV-A

7 HOMESTEAD PROPERTY TAX EXEMPTIONS

9 §671. Definitions

11 As used in this subchapter, unless the context otherwise
13 indicates, the following terms have the following meanings.

15 1. Permanent residence. "Permanent residence" means that
17 place where a person has a true, fixed and permanent home and
19 principal establishment to which, whenever absent, the person has
21 the intention of returning. A person may have only one permanent
23 residence at a time, and once a permanent residence is
25 established in a foreign state or country, it is presumed to
27 continue until the person shows that a change has occurred.

29 2. Permanent resident. "Permanent resident" means a person
31 who has established a permanent residence as defined in
33 subsection 1.

35 3. Real estate used and owned as a homestead. "Real estate
37 used and owned as a homestead" means real property less any
39 portion of that real property used for commercial purposes.

41 §672. Permanent residency; factual determination by municipal
43 assessor

45 Intention to establish a permanent residence in this State
47 is a factual determination to be made, in the first instance, by
49 the municipal assessor. Although any one factor is not
conclusive of the establishment or nonestablishment of permanent
residence, the following are relevant factors that may be
considered by the municipal assessor in making a determination as
to the intent of a person claiming a homestead exemption to
establish a permanent residence in this State:

1 1. Formal declarations. Formal declarations of the
2 applicant;

3 2. Informal statements. Informal statements of the
4 applicant;

5 3. Place of employment. The place of employment of the
6 applicant;

1 4. Previous permanent residency. The previous permanent
2 residency by the applicant in a state other than Maine or in
3 another country and the date non-Maine residency was terminated;

5 5. Voter registration. The place where the applicant is
6 registered to vote;

7 6. Driver's license. The place of issuance of a driver's
8 license to the applicant;

11 7. License tag. The place of issuance of a license tag on
12 any motor vehicle owned by the applicant;

13 8. Federal income tax returns. The address as listed on
14 federal income tax returns filed by the applicant; or

17 9. Maine intangible tax returns. The previous filing of
18 Maine intangible tax returns by the applicant.

19 §673. Exemption of homesteads

21 1. Definitions. As used in this section, unless the
22 context otherwise indicates, the following terms have the
23 following meanings.

24 A. "Cooperative apartment corporation" means a corporation,
25 whether for profit or nonprofit, organized for the purpose
26 of owning, maintaining and operating an apartment building
27 or apartment buildings to be occupied by its stockholders or
28 members.

29 B. "Tenant-stockholder or member" means an individual who
30 is entitled, solely by reason of that individual's ownership
31 of stock or membership in a cooperative apartment
32 corporation, to occupy for dwelling purposes an apartment in
33 a building owned by that corporation. A corporation leasing
34 land for a term of 98 years or more for the purpose of
35 maintaining and operating a cooperative apartment on that
36 land shall be considered the owner for purposes of this
37 exemption.

38 2. Amount of exemption. Every person who has the legal
39 title or beneficial title in equity to real property in this
40 State and who resides on that real property, and in good faith
41 makes the same that person's permanent residence or the permanent
42 residence of another or others legally or naturally dependent
43 upon that person, is entitled to an exemption from all taxation,
44 except for assessments for special benefits of 20% of assessed
45 valuation up to the assessed valuation of \$100,000 on the
46 residence and contiguous real property. The title may be held
47 jointly or in common with others, and the exemption may be
48 apportioned among the owners that reside on the property, to the
49 apportioned among the owners that reside on the property, to the
50 apportioned among the owners that reside on the property, to the
51 apportioned among the owners that reside on the property, to the

1 extent of their respective interests; but no exemption of more
2 than 20% of the first \$100,000 of assessed value may be allowed
3 to any one person or on any one dwelling house, except that an
4 exemption up to 20% of the first \$100,000 of assessed value may
5 be allowed on each apartment occupied by a tenant-stockholder or
6 member of a cooperative apartment corporation and on each
7 condominium parcel occupied by its owner; nor shall the amount of
8 the exemption allowed any person exceed the proportionate
9 assessed valuation based on the interest owned by that person.

11 3. Applicability. The exemption provided in this section
12 applies only to those parcels classified and assessed as
13 owner-occupied residential property or only to the portion of
14 property classified and assessed as owner-occupied residential
15 property.

17 4. Exemptions in addition to other exemptions. The
18 exemptions provided in subchapter IV, sections 653 and 654, shall
19 be in addition to the homestead exemption.

21 §674. Forms

23 The Bureau of Taxation shall furnish to the municipal
24 assessor of each municipality a sufficient number of printed
25 forms to be filed by taxpayers claiming to be entitled to the
26 exemption and shall prescribe the content of those forms by rule.

27 §675. Application

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31 1. Filing claims. At the time each taxpayer files claim
32 for a homestead exemption, the municipal assessor shall deliver
33 to the taxpayer a receipt over the municipal assessor's
34 signature, or that of an authorized designee, which shall
35 appropriately identify the property covered in the application,
36 shall bear the date the application is received by the municipal
37 assessor and shall include any serial number or other identifying
38 data desired by the municipal assessor. The possession of the
39 receipt constitutes conclusive proof of the timely filing of the
40 application.

41 2. False filing. Any person who knowingly gives false
42 information for the purpose of claiming homestead exemption as
43 provided for in this chapter is guilty of a Class E crime.

45 3. Reapplication. Any municipality may, at the request of
46 the municipal assessor and by majority vote of its governing
47 body, waive the requirement that an annual application be made
48 for exemption for property within the municipality after an
49 initial application is made and exemption granted, except that
50 reapplication shall be required when any property granted an
51 exemption is sold or otherwise disposed of, when the ownership
changes in any manner or when the applicant for homestead

1 exemption ceases to use the property as a homestead. In its
3 deliberations on whether to waive the annual application
5 requirement, the governing body shall consider the possibility of
7 fraudulent homestead exemption claims which may occur due to the
9 waiver of the annual application requirement. It is the duty of
11 the owner of any property granted an exemption who is not
13 required to file an annual application to notify the municipal
15 assessor promptly whenever the use of the property changes so as
17 to change the exempt status of the property. Any property owner
19 who fails to notify the municipal assessor shall be subject to
21 the provisions of section 678. This subsection shall apply only
23 to exemptions requested pursuant to this section.

24 **§676. Duty of municipal assessor**

25 The municipal assessor shall examine each claim for
27 exemption filed with the municipal assessor and if the claim is
29 found to be in accordance with law, shall mark the claim approved
31 and make the proper deductions on the tax books.

32 **§677. Homestead exemptions; approval; refusal; hearings**

33 The municipal assessors of the several municipalities of the
35 State shall, as soon as practicable after April 1st of each
37 current year and on or before July 1st of that year, carefully
39 consider all applications for tax exemptions that have been filed
41 in their respective offices on or before March 1st of that year.
43 If, upon investigation, the municipal assessor finds that the
45 applicant is entitled to the tax exemption applied for under the
47 law, the municipal assessor shall make entries upon the tax rolls
49 of the municipality necessary to allow the exemption to the
51 applicant. If, after due consideration, the municipal assessor
finds that the applicant is not entitled under the law to the
exemption, the municipal assessor shall immediately make out a
notice of disapproval that includes the reasons for disapproval.
A copy of the notice shall be served upon the applicant by the
municipal assessor either by personal delivery or by registered
mail to the post office address given by the applicant, and the
municipal assessor shall file the notice with the clerk of the
State Board of Property Tax Review. The notice of disapproval of
application for the exemption, when filed with the board,
constitutes an appeal of the applicant to the board from the
decision of the municipal assessor refusing to allow the
exemption, and the board shall review the application and
evidence presented to the municipal assessor upon which the
applicant based the claim for exemption and shall hear the
applicant in person or by agent on behalf of the applicant's
right to an exemption. The board shall reverse the decision of
the municipal assessor and grant the exemption to the applicant
if in its judgment the applicant is entitled to the exemption or
affirm the decision of the municipal assessor. The action of the
board is final unless the applicant, within 15 days from the date

1 of refusal of the application by the board, files in the District
3 Court of the county in which the homestead is situated a
5 proceeding against the municipal assessor for a declaratory
7 judgment or other appropriate proceeding. The failure of the
9 taxpayer to appear before the municipal assessor or State Board
11 of Property Tax Review or to file any paper other than the
13 application as in section 675 shall not constitute any bar or
15 defense to further proceedings.

17 **§678. Lien imposed on property of person claiming exemption**
19 **although not permanent resident**

21 **1. Tax lien.** When the estate of any person is being
23 probated or administered in another state under an allegation
25 that that person was a resident of that state and the estate of
27 that person contains real property situated in this State upon
29 which a homestead exemption has been allowed pursuant to section
31 675 for any year or years within 10 years immediately prior to
33 the death of the person, then within 3 years after the death of
35 that person the assessor of the municipality where the real
37 property is located shall, upon knowledge of that fact, record a
39 notice of tax lien against the property among the public records
41 of that municipality and the property shall be subject to the
43 payment of all taxes previously found exempt, plus 15% interest
45 per year, unless the District Court having jurisdiction over the
47 ancillary administration in this State determines that the
49 decedent was a permanent resident of this State during the year
or years an exemption was allowed, in which case the lien shall
not be filed or, if filed, shall be canceled of record by the
municipal assessor of the municipality where the real estate is
located.

33 **2. Property subject to tax.** In addition to subsection 1,
35 upon determination by the municipal assessor that for any year or
37 years within the prior 10 years a person who was not entitled to
39 a homestead exemption was granted a homestead exemption from ad
41 valorem taxes, that person's property that is situated in this
43 State shall be subject to the taxes previously exempted, plus 15%
45 interest per year.

41 **3. Collection.** The collection of taxes provided in this
43 section shall be in the same manner as existing ad valorem taxes
45 and the procedure for recapturing taxes under this section shall
47 be supplemental to any existing provision under the laws of this
49 State.

47 **4. Notice.** The lien provided in this section does not
49 attach to the property until the notice of tax lien is filed
among the public records of the municipality where the property

1 is located. Prior to the filing of the notice of lien, any
2 purchaser for value of the subject property shall take free and
3 clear of the lien.

5

7

STATEMENT OF FACT

9 This bill establishes a homestead property tax exemption of
10 20% of the first \$100,000 of the assessed valuation of a
11 permanent residence. The bill also establishes the application,
12 approval and appeal procedures associated with the tax exemption
13 as well as the remedies available against property owners who
14 claim the exemption without being permanent residents.

15

16 This bill is modeled after the Florida homestead property
17 tax laws.