

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1893

I.B. 4

House of Representatives, March 1, 2004

### An Act To Impose Limits on Real and Personal Property Taxes

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Transmitted to the Clerk of the 121st Maine Legislature by the Secretary of State on February 26, 2004 and ordered printed.

Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

4 **Sec. 1. 36 MRSA c. 103, sub-c. 1, Art. 1-A** is enacted to read:

6 **ARTICLE 1-A**

8 **LIMITATIONS ON REAL AND PERSONAL PROPERTY TAXES**

10 **§351. Definitions**

12 As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

14 1. **Base-year value.** "Base-year value" means the 1996-97 full-cash value of real and personal property as shown on tax bills under "total value."

18 2. **Change in ownership.** "Change in ownership" means the sale, transfer or acquisition of real or personal property. "Change in ownership" does not include the acquisition, prior to January 1, 1999, of real or personal property as a replacement for comparable property if the person acquiring the real or personal property has been displaced from the property by eminent domain proceedings, by acquisition by a public entity or by governmental action that has resulted in a judgment of inverse condemnation. "Change in ownership" also does not include transfer between spouses or transfers between parents and children.

30 3. **Comparable property.** "Comparable property" means real or personal property that is similar in size, utility and function to the property being replaced or property that conforms to state regulations governing the relocation of persons displaced by disaster or government action.

36 4. **Full-cash value.** "Full-cash value" means the governmental entity's total assessed valuation of real or personal property as shown on the 1996-97 tax bill under "total value." For newly constructed or newly purchased real or personal property that changes in ownership after the 1996-97 assessment, "full-cash value" means the appraised value.

42 5. **Governmental entity.** "Governmental entity" means any city, town, county, plantation, unorganized territory, district or other municipality that assesses ad valorem taxes on real or personal property as of the 1996-97 fiscal year.

48 6. **Local affected agency.** "Local affected agency" means any city, town, county, plantation, unorganized territory, school

2 district or community college that receives an annual property  
3 tax revenue allocation from any governmental entity or entities  
4 listed above.

6 **7. Newly constructed property.** "Newly constructed  
7 property" means real property that is constructed after the April  
8 1, 1999 local assessment. "Newly constructed property" does not  
9 include replacement property. "Newly constructed property" does  
10 not include the portion of reconstruction or improvement to a  
11 structure constructed of reinforced masonry bearing wall  
12 construction necessary to comply with any local ordinance  
13 relating to seismic safety during the first 15 years following  
14 the reconstruction or improvement. "Newly constructed property"  
15 does not include the construction or addition of any active solar  
16 energy system or the construction or addition of a fire sprinkler  
17 system or other fire extinguishing system, fire detection system  
18 or fire-related egress improvement that is installed or  
19 constructed after the effective date of this article.

20 **8. Replacement dwelling.** "Replacement dwelling" means a  
21 building, structure or other shelter constituting a place of  
22 abode or business, whether real or personal property, and any  
23 land on which it may be situated.

24 **9. Replacement property.** "Replacement property" means any  
25 real or personal property that is reconstructed after being  
26 substantially damaged or destroyed in a disaster, as declared by  
27 the Governor, where fair market value of the real or personal  
28 property, as reconstructed or purchased, is comparable to its  
29 fair market value immediately prior to the disaster.

30 **10. Substantially damaged or destroyed property.**  
31 "Substantially damaged or destroyed property" means real or  
32 personal property that sustains physical damage amounting to 50%  
33 of its value immediately before a disaster, as declared by the  
34 Governor.

35 **11. Transfer between parent and child.** "Transfer between  
36 parent and child" means the purchase or transfer, either  
37 voluntarily or as a result of a court order or judicial decree,  
38 of the principal residence and the first \$1,000,000 of the  
39 full-cash value of all other real or personal property between a  
40 parent and child.

41 **12. Transfer between spouses.** "Transfer between spouses"  
42 means a transfer or purchase of real or personal property, on or  
43 after April 1, 1999, between spouses. "Transfer between spouses"  
44 includes, but is not limited to:

2 A. A transfer to a trustee for the beneficial use of a  
4 spouse, or to the surviving spouse of a deceased transferor,  
6 or by a trustee of such a trust to the spouse of the trustor;

8 B. A transfer to a spouse that takes effect upon the death  
10 of that person's spouse;

12 C. A transfer by a person to that person's spouse or former  
14 spouse in connection with a property settlement agreement or  
16 legal separation or dissolution of a marriage;

18 D. The creation, transfer or termination, solely between  
20 spouses, of any coowner's interest; or

22 E. The distribution of a legal entity's property to a  
24 spouse or former spouse in exchange for the interest of the  
26 spouse or former spouse in the legal entity in connection  
28 with a property settlement agreement or legal separation or  
30 decree of dissolution of a marriage.

32 **§352. Maximum ad valorem tax on real or personal property;**  
34 **apportionment of tax revenues**

36 **1. Maximum tax.** The maximum amount of any ad valorem tax  
38 on real property and personal property shall not exceed 1% of the  
40 full-cash value of such property. The 1% tax must be collected  
42 by the governmental entity and apportioned according to the law  
44 within the city, county, town, plantation, unorganized territory  
46 or district.

48 **2. Exemption.** The limitation provided for in subsection 1  
50 shall not apply to ad valorem taxes or special assessments to pay  
the interest and redemption charges on any indebtedness approved  
by voters prior to the effective date of this article.

**3. Exceptions to limitations.** The limitation provided for  
in subsection 1 shall not apply to ad valorem taxes or special  
assessments to pay the interest and redemption charges on any  
indebtedness approved by the voters prior to July 1, 1999 or to  
any bonded indebtedness for the acquisition or improvement of  
real or personal property approved on or after July 1, 1999 by  
2/3 of the votes cast by voters voting on the proposition in a  
general election.

**§353. Valuation of real and personal property - appraised value**  
**after 1997 assessment - replacement dwelling**

**1. Full-cash value.** The full-cash value means the city,  
town, plantation, unorganized territory or district assessors  
total valuation of real and personal property as shown on the

2 1996-97 tax bill under "Total Value" or, thereafter, the  
3 appraised value of real and personal property when purchased,  
4 newly constructed or a change in ownership has occurred after the  
5 1997 assessment. All real and personal property not already  
6 assessed up to the state regulation of 100% valuation of the  
7 1996-97 total value may be reassessed to reflect that valuation.  
8 For purposes of this section, "newly constructed" does not  
9 include real property that is reconstructed after a disaster, as  
10 declared by the Governor, where the fair market value of the real  
11 property, as reconstructed, is comparable to its fair market  
12 value prior to the disaster. Also, the term "newly constructed"  
13 shall not include the portion of reconstruction or improvement to  
14 a structure, constructed of reinforced masonry bearing wall  
15 construction, necessary to comply with any local ordinance  
16 relating to seismic safety during the first 15 years following  
17 that reconstruction or improvement. Depreciation on personal  
18 property shall be depreciated and listed from the annual form as  
19 supplied by the taxpayer.

20 However, the Legislature may provide that under appropriate  
21 circumstances and pursuant to definitions and procedures  
22 established by the Legislature, any person over the age of 55  
23 years who resides in property which is eligible for the  
24 homeowner's exemption and any implementing legislation may  
25 transfer the base year value of the property entitled to  
26 exemption, with the adjustments authorized by subsection 5, to  
27 any replacement dwelling of equal or lesser value located within  
28 the same state and purchased or newly constructed by that person  
29 as his or her principal residence within 2 years of the sale of  
30 the original property. For purposes of this section, "any person  
31 over the age of 55 years" includes a married couple one member of  
32 which is over the age of 55 years. For purposes of this section,  
33 "replacement dwelling" means a building or structure or other  
34 shelter constituting a place of abode, whether real property and  
35 personal property, and any land on which it may be situated. For  
36 purposes of this section, a 2-dwelling unit shall be considered  
37 as 2 separate single-family dwellings. This paragraph shall  
38 apply to any replacement dwelling that was purchased or newly  
39 constructed on or after passage of this article.

40 In addition, the Legislature may authorize a government entity,  
41 after consultation with the local affected agencies within the  
42 government entity's boundaries, to adopt an ordinance making the  
43 provisions of this subdivision relating to transfer of base year  
44 value also applicable to situations in which the replacement  
45 dwellings are located in that government entity and the original  
46 properties are located in another county within this State. For  
47 purposes of this paragraph, "local affected agency" means any  
48 city, special district, school district or community college  
49 district that receives an annual property tax revenue  
50

2 allocation. This paragraph shall apply to any replacement  
3 dwelling that was purchased or newly constructed on or after the  
4 date the county adopted the provisions of the subdivision  
5 relating to the transfer of base year value, but shall not apply  
6 to any replacement dwelling that was purchased or newly  
7 constructed before the passage of this article.

8 **2. Inflationary rate.** The full cash value, listed on real  
9 and personal property tax bills as "Total value," as the total  
10 base may reflect from year to year an inflationary rate not to  
11 exceed 2 percent for any given year or reduction as shown in the  
12 Consumer Price Index or comparable data for the area under tax  
13 jurisdiction, or may be reduced to reflect substantial damage,  
14 destruction or other factors causing a decline in value.

15 **3. Newly constructed.** For purposes of subsection 1, the  
16 Legislature may provide that the term "newly constructed" shall  
17 not include both of the following.

18 **A.** The construction or addition of any active solar energy  
19 system.

20 **B.** The construction or installation of any fire sprinkler  
21 system, other fire extinguishing system, fire detection  
22 system or fire-related egress improvement, as defined by the  
23 Legislature, which is constructed or installed after the  
24 effective date of this paragraph.

25 **4. Change in ownership.** For purposes of subsection 1, the  
26 term "change in ownership" shall not include the acquisition of  
27 real property and personal property as a replacement for  
28 comparable property if the person acquiring the real or personal  
29 property has been displaced from the property by eminent domain  
30 proceedings, by acquisition by a public entity or a governmental  
31 action that has resulted in a judgment of inverse condemnation.  
32 The real and personal property acquired shall be deemed  
33 comparable to the property replaced if it is similar in size,  
34 utility and function, or it conforms to state regulations defined  
35 by the Legislature governing the relocation of persons displaced  
36 by governmental actions. The provisions of this subdivision  
37 shall be applied to any property acquired after the date of  
38 passage, but shall affect only those assessments of that property  
39 that occur after the provisions of this subdivision take effect.

40 **5. Disasters.** Notwithstanding any other provision of this  
41 section, the Legislature shall provide that the base-year value  
42 of property that is substantially damaged or destroyed by a  
43 disaster, as declared by the Governor, may be transferred to  
44 comparable property, within the same town, city, plantation,  
45 unorganized territory or other district, that is acquired or  
46 destroyed.

2 newly constructed as a replacement for the substantially damaged  
or destroyed property.

4 This subdivision shall apply to any comparable replacement  
property acquired or newly constructed on or after July 1, 1999  
6 and to the determination of base-year values for the 1996-97  
fiscal year and fiscal years thereafter.

8 **6. Replacement property.** For the purposes of subsection 5:

10 **A. Property is substantially damaged or destroyed if it**  
12 **sustains physical damage amounting to more than 50 percent**  
14 **of its value immediately before the disaster. Damage**  
16 **includes a diminution in the value of real or personal**  
**property as a result of restricted access caused by the**  
**disaster; and**

18 **B. Replacement property is comparable to the property**  
20 **substantially damaged or destroyed if it is similar in size,**  
**utility and function to the real and personal property that**  
22 **it replaces, and if the fair market value of the acquired**  
**property is comparable to the fair market value of the**  
24 **replaced said property prior to the disaster.**

26 **7. Property transfers between spouses.** For the purpose of  
28 **subsection 1, the terms "purchased" and "change in ownership"**  
**shall not include the purchase or transfer of real or personal**  
**property between spouses since April 1, 1999, including, but not**  
**limited to, all of the following:**

30 **A. Transfers to a trustee for the beneficial use of a**  
32 **spouse, or the surviving spouse of a deceased transferor, or**  
34 **by a trustee of such a trust to the spouse of the trustor;**

36 **B. Transfer to a spouse that takes effect upon the death of**  
**a spouse;**

38 **C. Transfer to a spouse or former spouse in connection with**  
40 **a property settlement agreement or decree of dissolution of**  
**a marriage or legal separation;**

42 **D. The creation, transfer or termination, solely between**  
44 **spouses, of any coowner's interest; and**

46 **E. The distribution of a legal entity's property to a**  
48 **spouse or a former spouse in exchange for the interest of**  
**the spouses in the legal entity in connection with a**  
**property settlement agreement or a decree of dissolution of**  
50 **a marriage or legal separation.**



2           8. Property transfers between parents and child. For  
3           purposes of subsection 1, the terms "purchased" and "change of  
4           ownership" shall not include the purchase or transfer of the  
5           principal residence and personal property of the transferor in  
6           the case of a purchase or transfer between parents and their  
7           children, as defined by the Legislature, and the purchase or  
8           transfer of the first \$1,000,000 of the full cash value of all  
9           other real and personal property between parents and their  
10           children, as defined by the Legislature. This subdivision shall  
11           apply to both voluntary transfers and transfers resulting from a  
12           court order or judicial decree.

13           **§354. Imposition of special taxes**

14           A governmental entity, by a 2/3 referendum vote of qualified  
15           voters held at a general election, held by referendum, may impose  
16           special taxes on a governmental entity, except no ad valorem  
17           taxes or special tax may be imposed on real and personal property  
18           or a transaction tax or sales tax on the sale of real and  
19           personal property within that governmental entity.

20           **§355. Effective date of article**

21           This article shall take effect for the tax year beginning on  
22           April 1 following the passage of this Amendment, except section  
23           354, which shall become effective upon the passage of this  
24           article.

25           **§356. Condition**

26           From and after the effective date of this article, any  
27           changes in the taxes on any ad valorem tax on real property and  
28           personal property for the purpose of increasing revenues  
29           collected pursuant thereto whether by increased rates or changes  
30           in the methods of computation must be imposed by an Act passed by  
31           not less than 2/3 of the votes cast, and said vote shall be held  
32           in a statewide referendum in a general election.

33           **§357. Real and personal property transfers between parents and**  
34           **children**

35           For purposes of subdivision (A), the terms "purchased" and  
36           "change of ownership" shall not include the purchase or transfer  
37           of the principal residence and personal property of the  
38           transferor in the case of a purchase or transfer between parents  
39           and their children, as defined by the Legislature, and the  
40           purchase or transfer of the first \$1,000,000 of the full cash  
41           value of all other real and personal property between parents and  
42           their children, as defined by the Legislature. This subdivision

2 shall apply to both voluntary transfers and transfers resulting  
3 from a court order or judicial decree.

4 **§358. Certain taxes prohibited**

6 A special district tax, user fee tax or county tax may not  
7 be imposed on any real or personal property.

8 **§359. Construction**

10 This article may not be construed to prevent or prohibit a  
11 town, city, county, plantation, unorganized territory, county or  
12 district from initiating taxes or fees with a 2/3 vote in a  
13 general election, except no ad valorem tax on real and personal  
14 property or a transaction tax or sales tax on the sale of real  
15 and personal property within such city, county, town, plantation,  
16 unorganized territory, county or district may be imposed.

18 **§360. Application**

20 This Act applies to all government entities that assess ad  
21 valorem taxes on real and personal property tax. This Act does  
22 not preclude or prohibit a city, town, plantation, unorganized  
23 territory or district from assessing or collecting taxes and  
24 fees, except no ad valorem taxes on real and personal property or  
25 a transaction tax or sales tax on the sale of real and personal  
26 property within such city, town, plantation, unorganized  
27 territory, county or special district may be imposed.

30 **§361. Severability**

32 If any portion, word, clause or phrase of this initiative  
33 for any reason is held to be invalid or unconstitutional by a  
34 court of competent jurisdiction, the remaining portions, clauses  
35 and phrases may not be affected, but shall remain in full force  
36 and effect.

38 **SUMMARY**

40 This initiated bill limits the ad valorem taxes levied on  
41 real or personal property to a maximum rate of 1% of the value of  
42 the property. The base value of the property is the 1996-97  
43 assessed value. For property constructed, sold or transferred  
44 after the 1996-97 assessment, the base value is the appraised  
45 value at the time of construction or acquisition. This base  
46 value may be adjusted up or down each year by a maximum of 2%.  
47 Certain exemptions, including transfers between spouses and  
48 transfers between a parent and child, are included.

50

2           This initiated bill also prohibits any change in the maximum  
property tax rate except by a 2/3 vote of all voters in a  
statewide referendum. Localities may impose special taxes,  
4           except on property, and only by a 2/3 vote of the electors in the  
locality by referendum at a general election in November.