

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
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PUBLIC LAWS

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1987

CHAPTER 93-CHARASSMENT BASED ON CHARACTERISTICS§2931. Prohibition

No person, whether or not acting under color of law, may, by force or threat of force, intentionally injure, intimidate or interfere with, or intentionally attempt to injure, intimidate or interfere with or intentionally oppress or threaten any other person in the free exercise or enjoyment of any right or privilege, secured to him by the Constitution of Maine or laws of the State or by the United States Constitution or laws of the United States.

As used in this section, "intentionally" has the meaning set forth in Title 17-A, section 35.

§2932. Penalty

A violation of this chapter is a Class D crime.

Sec. 3. 25 MRSA §1544, last ¶, as enacted by PL 1979, c. 578, §6, is amended to read:

The bureau shall establish a category for abuse by adults of family or household members and a category for harassment, as defined in Title 5, chapter 337-A, which shall be supplementary to its other reported information. The bureau shall prescribe the information to be submitted in the same manner as for all other categories of the uniform crime reports.

Effective September 29, 1987.

CHAPTER 516

H.P. 537 — L.D. 721

AN ACT to Provide Relief from Property Taxes through Extension of the Elderly Tax and Rent Refund Circuit Breaker to Both Elderly and Nonelderly Individuals.

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

Sec. 1. 36 MRSA c. 901, as amended, is repealed.

Sec. 2. 36 MRSA 6162, as enacted by PL 1979, c. 726, §7, is repealed.

Sec. 3. 36 MRSA c. 907 is enacted to read:

CHAPTER 907THE HOUSEHOLD TAX AND RENT REFUND ACT§6201. Definitions

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

1. Benefit base. "Benefit base" means property taxes accrued or rent constituting property taxes accrued.

2. Claimant. "Claimant" means a person who has filed a claim under this chapter and was domiciled in this State and owned or rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this chapter. When 2 individuals of a household are able to meet the qualifications for a claimant, they may determine between them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the State Tax Assessor and his decision shall be final. If a homestead is occupied by 2 or more individuals, and more than one individual is able to qualify as a claimant the individuals may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the State Tax Assessor and his decision shall be final. Ownership of a homestead under this chapter may be by fee, by life tenancy, by bond for deed, as mortgagee or any other possessory interest in which the owner is personally responsible for the tax for which he claims a refund.

3. Elderly household. "Elderly household" means a household in which:

A. At least one member of the household has attained the age of 62 during the year for which relief is requested;

B. The claimant is currently not married and has attained the age of 55 during the year for which relief is requested and is, due to disability, receiving federal disability payments, such as supplemental security income; or

C. The claimant is currently married and has attained the age of 55 during the year for which relief is requested and both the claimant and the claimant's spouse are, due to disability, receiving federal disability payments, such as supplemental security income.

4. Gross rent. "Gross rent" means rental paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement. If the landlord and tenant have not dealt with each other at arm's length, and the State Tax Assessor is satisfied that the gross rent charged was excessive, he may adjust the gross rent to a reasonable amount for purposes of this subchapter.

5. Homestead. "Homestead" means the dwelling, owned or rented by the claimant, and occupied by the claimant and his dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built. "Owned" includes

a vendee in possession under a land contract and of one or more joint tenants or tenants in common.

6. Household. "Household" means a claimant and spouse and members of the household for whom the claimant under this chapter is entitled to claim an exemption as a dependent under Part 8 for the year for which relief is requested.

7. Household income. "Household income" means all income received by all persons of a household in a calendar year while members of the household.

8. Household income eligibility adjustment factor. "Household income eligibility adjustment factor" means one plus the annualized cost-of-living adjustments for Social Security retirement benefits during the year for which relief is requested.

9. Income. "Income" means the sum of Maine adjusted gross income determined in accordance with Part 8, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, the gross amount of any pension or annuity, including railroad retirement benefits, all payments received under the United States Social Security Act, state unemployment insurance laws, veterans' disability pensions, nontaxable interest received from the Federal Government or any of its instrumentalities, workers' compensation and the gross amount of "loss of time" insurance, cash public assistance and relief, but not including relief granted under this chapter. It does not include gifts from nongovernmental sources or surplus foods or other relief in kind supplied by a governmental agency.

10. Property taxes accrued. "Property taxes accrued" means property taxes exclusive of special assessment, delinquent interest and charges for service levied on a claimant's homestead in this State as of April 1, 1972, or any tax year thereafter. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one or more persons or entities are not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead which reflects the ownership percentage of the claimant and his household. If a claimant and spouse own their homestead part of the preceding tax year and rent it or a different homestead for part of the same tax year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied by the claimant on April 1st, multiplied by the percentage of 12 months that such property was owned and occupied by the household as its homestead during the preceding tax year. When a household owns and occupies 2 or more different homesteads in this State in the same tax year, property taxes accrued shall relate only to that property occupied by the household as a homestead on April 1st. If a homestead is an integral part of a larger unit such as a farm, or a multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this chap-

ter, "unit" refers to the parcel of property separately assessed of which the homestead is a part.

11. Rent constituting property taxes accrued. "Rent constituting property taxes accrued" means 25% of the gross rent actually paid in cash or its equivalent in any tax year by a claimant and his household solely for the right of occupancy of their Maine homestead in the tax year and which rent constitutes the basis, in the succeeding calendar year, of a claim for relief under this chapter by the claimant.

12. Year for which relief is requested. "Year for which relief is requested" means the calendar year preceding that in which the claim is filed.

§6202. Claim is personal

The right to file claim under this chapter shall be personal to the claimant and shall not survive his death, but the right may be exercised on behalf of a claimant by his legal guardian or attorney-in-fact. If a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to another member of the household as determined by the State Tax Assessor.

If the claimant was the only member of his household, the claim may be paid to his personal representative, but if one is not appointed within 2 years of the filing of the claim, the amount of the claim shall escheat to the State.

§6203. Claim to be paid from General Fund

The amount of the claim after certification by the State Tax Assessor may be paid to claimant from the General Fund. No interest may be allowed on any payment made to a claimant pursuant to this chapter.

§6204. Filing date

No claim may be paid unless the claim is filed with the Bureau of Taxation on or after August 1st and on or before the following October 15th.

§6205. One claim per household

Only one claimant per household or homestead per year shall be entitled to relief under this chapter.

§6206. Income limitations for elderly households

A claimant representing an elderly household shall qualify for the following benefits subject to the following income limitations.

1. Single-member elderly households. For single-member elderly households, the benefit shall be calculated as follows:

If household income equals:

\$ 0 to \$6,800

The benefit equals:

100% of the benefit base up to

	a maximum of \$400
<u>\$6,801 to \$7,000</u>	<u>75% of the benefit base up to a maximum of \$300</u>
<u>\$7,001 to \$7,200</u>	<u>50% of the benefit base up to a maximum of \$200</u>
<u>\$7,201 to \$7,400</u>	<u>25% of the benefit base up to a maximum of \$100</u>

2. Elderly households with 2 or more members. For elderly households with 2 or more members, the benefit shall be calculated as follows:

<u>If household income equals:</u>	<u>The benefit equals:</u>
<u>\$ 0 to \$8,100</u>	<u>100% of the benefit base up to a maximum of \$400</u>
<u>\$8,101 to \$8,500</u>	<u>75% of the benefit base up to a maximum of \$300</u>
<u>\$8,501 to \$8,800</u>	<u>50% of the benefit base up to a maximum of \$200</u>
<u>\$8,801 to \$9,200</u>	<u>25% of the benefit base up to a maximum of \$100</u>

3. Minimum benefit. No claim of less than \$5 may be granted.

§6207. Income limitations for nonelderly households

A claimant representing a nonelderly household shall qualify for the following benefits subject to the following income limitations.

1. Single-member nonelderly households. For single-member nonelderly households, the benefit shall be 100% of the benefit base up to the following amounts:

A. For claims submitted after July 1, 1988:

<u>If household income equals:</u>	<u>The maximum benefit equals:</u>
<u>\$ 0 to \$2,500</u>	<u>\$104</u>
<u>\$2,501 to \$5,000</u>	<u>\$87</u>
<u>\$5,001 to \$7,400</u>	<u>\$75</u>

2. Nonelderly households with 2 or more members. For nonelderly households with 2 or more members, the benefit shall be 100% of the benefit base up to the following amounts:

A. For claims submitted after July 1, 1988:

<u>If household income equals:</u>	<u>The maximum benefit equals:</u>
<u>\$ 0 to \$2,500</u>	<u>\$145</u>
<u>\$2,501 to \$5,000</u>	<u>\$116</u>
<u>\$5,001 to \$7,500</u>	<u>\$99</u>
<u>\$7,501 to \$9,200</u>	<u>\$87</u>

3. Subsidized housing. No claim may be granted under this section to claimants whose housing costs for the year for which relief is requested were subsidized by government programs which limit housing costs to a percentage of household income.

4. Minimum benefit. No claim of less than \$5 may be granted.

§6208. Elderly option

If a claimant representing an elderly household would qualify for a larger benefit under section 6207 than he would receive under section 6206, then that claimant may choose to receive the benefit calculated under section 6207.

§6209. Annual adjustment

1. Elderly households. Beginning March 1, 1989, and annually thereafter, the State Tax Assessor shall determine the household income eligibility adjustment factor. That factor shall be multiplied by the income limitations in section 6206, applicable for the year prior to that for which relief is requested. The result shall be rounded to the nearest \$100 and shall apply to the year for which relief is requested corresponding to the year on which the annualized cost of living adjustments were based.

§6210. Administration

The State Tax Assessor shall make available suitable forms with instructions for claimants. The claim shall be in the form the State Tax Assessor may prescribe and shall be signed by the claimant.

§6211. Audit of claim

If, on the audit of any claim filed under this chapter, the State Tax Assessor determines the amount to have been incorrectly determined, he shall redetermine the claim and notify the claimant of the redetermination and his reasons for it. The redetermination shall be final unless appealed to the State Tax Assessor within 30 days of notice.

§6212. Denial of claim

If it is determined that a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full and, if the claim has been paid the amount paid may be recovered by assessment, and the assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid, at the rate of 1% per month. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, commits a Class E crime. If it is determined that a claim is excessive and was negligently prepared, 10% of the corrected claim shall be disallowed, and if the claim has been paid the proper portion of any amount paid shall

be similarly recovered by assessment, and the assessment shall bear interest at 1% per month from the date of payment until refunded.

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§6213. Appeal

A denial in whole or in part of relief claimed under this chapter may be appealed in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

§6214. Disallowance of certain claims

A claim shall be disallowed, if the State Tax Assessor finds that the claimant received title to his homestead primarily for the purpose of receiving benefits under this chapter.

§6215. Extension of time for filing claims

In case of sickness, absence or other disability, or if, in his judgment, good cause exists, the State Tax Assessor may extend, for a period not to exceed 6 months, the time for filing a claim.

§6216. Protection from loss of benefits

It is the intent of the Legislature that any claim paid under this chapter shall supplement any benefits paid under aid to the aged, blind and disabled or any program which succeeds or supplants it. The Department of Human Services shall take any such action as may be necessary to assure that recipients of aid to the aged, blind and disabled shall continue to receive as high a percentage of their current assistance as may be possible. To carry out this legislative directive, the department shall utilize all the state funds expected to be saved by a reduction in benefits of recipients of aid to the aged, blind and disabled resulting from this chapter to raise the standards of aid to the aged, blind and disabled at a total cost in state funds equivalent to the savings in state funds which would be expected as a result of this chapter.

Benefits received under this chapter may not be included as income for purposes of any state or municipally administered public benefit program.

These benefits do not duplicate and shall not reduce the amount of any individual's payment under the Aid to Families with Dependent Children program because those payments are insufficient to meet the total amount of money determined to be needed for housing in accordance with the state standard of need under that program.

§6217. Sunset

Section 6207, subsection 1, paragraphs A and subsection 2, paragraphs A are repealed July 1, 1989.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

FINANCE, DEPARTMENT OF

Bureau of Taxation

Positions		(2.0)
Personal Services		\$49,000
All Other		86,600
Capital Expenditures	\$3,400	

Total ----- \$3,400 \$ 135,600

Elderly Householders' Tax Refund

All Other \$1,307,000

Low-income Tax Relief

All Other \$2,554,000

DEPARTMENT OF FINANCE

TOTAL ----- \$3,400 \$3,996,600

Sec. 5. Study sunset. The Joint Standing Committee on Taxation shall study the Household Tax and Rent Refund Program and report its findings to the Second Regular Session of the 113th Legislature. The committee shall recommend retention, repeal or revision of the program.

Sec. 6. Effective date. Sections 1 to 3 of this Act shall take effect July 1, 1988.

Effective September 29, 1987, unless otherwise indicated.

CHAPTER 517

H.P. 1360 — L.D. 1862

AN ACT to Ensure Safe Management, Recycling and Disposal of Solid Waste and to Reorganize the Solid Waste Law.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the proper management and disposal of solid waste is imperative to safeguard the public health and welfare and the environment; and

Whereas, large numbers of municipal landfills must be properly cleaned up and closed in a timely and effective manner to protect ground water quality; and

Whereas, local financial and technical resources necessary to accomplish this objective are not available and state assistance is required; and

Whereas, adequate waste disposal capacity is essential to the economic well-being of the citizens of the State; and