

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

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Legislative Document

No. 1445

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S. P. 547

In Senate, March 8, 1967

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Hildreth of Cumberland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

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**AN ACT to Provide Alternative Method of Appeal from Municipal Assessment  
on Real Estate.**

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

**Sec. 1. R. S., T. 36, § 708, amended.** Section 708 of Title 36 of the Revised Statutes is amended to read as follows:

**§ 708. Assessors to value real estate and personal property**

The assessors shall ascertain as nearly as may be the nature, amount and value as of the first day of each April of the real estate, **based on its market value or a stated percentage thereof**, and personal property subject to be taxed, and shall estimate and record separately the land value, exclusive of buildings, of each parcel of real estate.

**Sec. 2. R. S., T. 36, § 841, amended.** The 2nd sentence of section 841 of Title 36 of the Revised Statutes is amended to read as follows:

Appeals from the decision of the assessors shall be taken in accordance with sections 844, ~~and~~ 845 or 850.

**Sec. 3. R. S., T. 36, § 850, additional.** Title 36 of the Revised Statutes is amended by adding a new section 850, to read as follows:

**§ 850. Alternative method of appeal**

**1. Procedure.** Whenever the owner of any real property or his agent complains of the value fixed for his property by the municipal tax assessor, and, after having raised objection and requested relief under section 841, is dissatisfied with the value placed upon his property, he may challenge this assessment value in the following manner:

A. Within 5 days after raising objections and getting a decision, as provided under section 842, the owner shall file notice on the tax assessor that he intends to challenge the assessment value fixed on his property.

B. Within 10 days after filing the notice prescribed in paragraph A the owner shall deliver to the tax assessor the following:

(1) A certificate executed by the property owner, stating the amount he ascertains to be the just market valuation of his property, together with an accurate description of the property. A certificate may include more than one parcel of land so long as all parcels are continuous and the amounts asserted as the just market valuation are itemized for each parcel.

(2) Written authorization to the tax assessor requesting and empowering him to advertise and conduct a public auction for the purpose of receiving cash offers for the property in amounts of not less than the amount set forth in the certificate. This authorization shall be accompanied by a filing fee of \$15 and a cash deposit or surety bond in the amount of 10% of the value of the property stated in the certificate.

C. After receiving all materials prescribed by paragraph B the tax assessor shall cause prior notice to be published once each week for 3 consecutive weeks in a newspaper of general circulation in the county that a public auction will be held at the municipal offices at a time and day set forth for the purpose of receiving cash offers to purchase the property. The property owner shall be held responsible for the cost of publishing these prior notices and shall reimburse the tax assessor for such costs.

D. At the time and day specified, the tax assessor shall conduct a public auction and accept the highest cash offer bid for the property but the lowest acceptable bid shall be no less than the amount set forth in the certificate. The highest bidder, hereinafter in this section called the buyer, shall immediately deposit the amount bid with the tax assessor and the tax assessor shall immediately notify the property owner by certified mail, return receipt requested, of the details of the auction.

E. Within 30 days after the date notification is mailed as required in paragraph D, the property owner shall pay for and deliver to the office of the tax assessor evidence of title in the form of a title opinion by an attorney acceptable to the tax assessor certifying the title to be conveyed to be good and marketable or a title insurance binder issued by a title insurer acceptable to the tax assessor, agreeing to issue to the buyer, upon the recording of the deed mentioned in this section, a title insurance policy in the amount of the purchase price insuring the title of the buyer to the real property, excepting only unpaid mechanics' and materialmen's liens, taxes and assessments for the current year, any statement of facts an accurate survey would show, and such standard conditions and exceptions as usually are printed in policies issued by the title insurer.

F. The buyer shall have 10 days after delivery of the evidence of title within which to inspect it and notify the property owner and tax assessor in writing of any defects in the title.

G. If the evidence of title shall not meet the requirements specified, and the buyer shall so notify the property owner and tax assessor in writing within the time prescribed, specifying the defects, the property owner shall have 90 days after receipt of that notice to cure the defects, and shall in good faith exercise due diligence to do so. If the defects are cured within that time, the buyer shall have 10 days after the curing thereof to inspect the new evidence of title and make written objections to the property owner and tax assessor.

H. If the defects are not cured within the time allotted, the buyer shall have 10 days after expiration of that time to notify the tax assessor and the property owner in writing that he accepts the title notwithstanding the defects.

I. In the absence of written objection or, if such written objection has been given and subsequently written notice has been given by the buyer accepting title notwithstanding any defects, the tax assessor shall, upon receipt of a good and sufficient warranty deed, containing all the usual common law covenants of title, conveying the property to the buyer in fee simple, delivered to him by the property owner, shall deliver such deed to the buyer and shall immediately pay over to the property owner the amount bid and paid by the buyer. The tax assessor shall also return to the property owner the cash deposit or surety bond given upon initially filing the written authorization as provided in subsection 1, paragraph B, subparagraph (2) less any amounts that may be due as required in paragraph C.

J. The property owner shall pay for the documentary tax stamps affixed to the deed. The buyer shall pay the cost of recording the deed. The real property tax for the year in which the balance of the purchase price is paid shall be prorated between the parties. The premium on any hazard insurance policy in force covering any improvements on the property shall be prorated between the parties, or the policy may be cancelled, as the buyer may elect. If the property is occupied by a tenant when the balance of the purchase price is paid, the rent shall be prorated between the parties. All prorating shall be as of the date the balance of the purchase price is paid.

K. In the event the property owner fails to deliver to the tax assessor a good and sufficient warranty deed as provided in paragraph I, within the time prescribed, the property owner shall forfeit the cash deposit or surety bond given to the tax assessor with the written authorization as provided and the tax assessor shall pay over  $\frac{1}{2}$  of this amount to the buyer, together with a return of the amount paid in pursuant to the buyer's bid. This shall be full and complete compensation to the bidder and he shall have no other recourse against the property owner and the tax assessor arising out of any of the measures taken as provided in this section. The tax assessor shall retain the remainder of the forfeited cash deposit or surety bond, provided that the property owner shall not forfeit the cash deposit or surety bond except for costs not otherwise paid where he is unable to deliver merchantable title acceptable to the buyer. In such event the just value shall be determined as otherwise provided by law.

L. In the event that no bid is received at the auction, the amount set forth in the certificate shall be established as the just valuation of the property and shall be entered on the tax rolls of the municipality. If more than one parcel

of land was included in the certificate, the amount shall be applied to each parcel on a proportionate share basis.

2. Intent and purpose. It is the intent and purpose of the Legislature, in enacting this section, to establish an alternative method of ascertaining the just market valuation of property when the owner elects to challenge the value established or agreed to by the tax assessor.

3. Bid price. Notwithstanding anything to the contrary in this section, the term "cash offer" or "cash offer bid" wherever either or both are used in this section, shall include an offer or bid price payable not less than 29% thereof in cash down in the same manner as provided for in subsection 1, paragraph B, subparagraph (2), and paragraph D, with the balance of said bid price to be paid in 5 equal annual consecutive installments, with interest thereon at not less than 6% per year on the unpaid balance until paid, which balance shall be secured by a real estate mortgage on the parcel sold hereunder, and on standard mortgage forms.

4. Refusal to offer for sale. The assessors may refuse to offer any such property for sale under this section when in their opinion the real property in question is of such nature that the offering for sale of such property would not result in a fair determination of market value.

5. Appeal. The owner may appeal from such refusal by the assessor as provided by subsection 4 by complaint to the Superior Court of the county in which said real property is located for the sole purpose of determining whether such refusal was warranted and reasonable in light of the purposes to be accomplished as set forth in subsection 2.