

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 1292

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H. P. 938

House of Representatives, March 3, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Hodgdon of Kittery.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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AN ACT Relating to Real Estate Transfers.

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

Sec. 1. R. S., T. 36, c. 711-A, additional. Title 36 of the Revised Statutes is amended by adding a new chapter 711-A to read as follows:

CHAPTER 711-A

REAL ESTATE TRANSFERS

§ 4641. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Consideration. "Consideration" means the total price or amount paid, or required to be paid, for real property valued in money, whether received in money or otherwise and shall include the amount of any mortgages, liens or encumbrances thereon.

2. Deed. "Deed" means a written instrument whereby the grantor conveys to the grantee title in whole or in part to real property.

3. Value. "Value" means the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

§ 4642. Rate of tax

There is imposed a tax upon the privilege of transferring title to real property at the rate of 1¢ per \$10 of consideration therefor. The grantee shall be liable for payment of said tax.

### § 4643. Collection.

The State Tax Assessor shall provide for the collection of the tax by each register of deeds, and for that purpose may provide for the installation of a meter machine in each registry office.

When any deed is offered for recordation, the register of deeds shall ascertain and compute the amount of tax due thereon and shall collect such amount.

The amount of tax shall be computed on the consideration for the deed, as set forth in the "declaration of value" prescribed by section 4645.

Payment of tax shall be evidenced by affixing such indicia of payment as shall be prescribed by the State Tax Assessor to the declaration of value provided for in section 4645.

Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor 90% of the tax collected during the previous month. The remaining 10% shall be retained for the county by the register of deeds and accounted for to the county treasurer as reimbursement for services rendered by the county in collecting the tax.

The State Tax Assessor shall pay over all receipts to the Treasurer of State daily and such receipts shall be credited to the General Fund.

### § 4644. Exemptions

1. Exemptions. The following deeds shall be exempt from the tax imposed by this chapter:

- A. Deeds to property acquired by the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions;
- B. Mortgage deeds and discharges of mortgage deeds;
- C. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;
- D. Deeds between husband and wife, or parent and child, without actual consideration therefor;
- E. Tax deeds;
- F. Deeds or partition;
- G. Deeds made pursuant to mergers of corporations;
- H. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.

### § 4645. Declaration of value

Each deed, except conveyances by or to the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions,

mortgages or mortgage discharges, when offered for recording shall be accompanied by a statement or declaration prepared in duplicate and signed, subject to the penalties of perjury by the parties to the transaction or their authorized representatives, declaring the consideration for and the value of the property thereby transferred. If the transfer is declared not subject to the tax, the reason therefor shall be stated.

The declaration shall be in form prescribed by the State Tax Assessor, who shall provide an adequate supply of such forms to each register of deeds in the State.

The register of deeds shall transmit both copies of the declaration of value to the State Tax Assessor not later than 40 days from the date of recordation of the deed subject to the tax.

The State Tax Assessor shall, on or before the 20th day of each month, transmit one copy of each declaration of value to the assessors of the municipality in which the real estate is situated.

The information contained in the declaration of value prescribed by this section shall be used only in connection with the administration of taxes.

#### § 4646. Powers and duties of State Tax Assessor.

The State Tax Assessor is authorized to prescribe such rules and regulations as he may deem necessary to carry out the purposes of this chapter.

Within 2 years of the recording of a deed subject to the tax imposed by this chapter, the State Tax Assessor may examine any books, papers, records or memoranda of this grantor or grantee bearing upon the amount of tax payable, and may enforce by subpoena his right to such examination. If therefrom he shall determine there is a deficiency of taxes due under this chapter, he shall assess such deficiency, together with interest at the rate of 6% per year from the date of recording, giving notice to the persons liable, but no such assessment can be made more than 2 years after date of recording.

#### § 4647. Petition for reconsideration of assessment

Any person against whom an assessment shall be made by the State Tax Assessor under section 4646 may petition for a reconsideration of assessment within 15 days after notice shall have been given such person. If a petition for a reconsideration of assessment is not filed within said 15-day period, the amount of the assessment becomes final at the expiration thereof as to law and fact. If a petition for reconsideration is filed within said 15-day period, the State Tax Assessor shall reconsider the assessment and, if the petitioner has so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown the State Tax Assessor may extend the time for filing such petition. If appeal is not taken as provided in section 4648, the amount of the assessment upon reconsideration becomes final as to law and fact at the expiration of the 30-day period therein allowed for the taking of appeals.

#### § 4648. Appeals

Any taxpayer aggrieved by the decision upon such petition may, within 30 days after notice thereof from the State Tax Assessor, appeal therefrom to the Superior Court in the county wherein the deed has been recorded. The appellant shall, when such appeal is taken, file an affidavit stating his reasons of appeal and serve a copy thereof on the State Tax Assessor, and in the hearing of the appeal shall be confined to the reasons of the appeal set forth in such affidavit. Jurisdiction is granted to the Superior Court to hear and determine such appeals and to enter such order and decrees as the nature of the case may require. The decision upon all questions of fact shall be final. An appeal may be taken to the law courts as in other actions. Decisions shall be certified forthwith by the clerk of courts to the State Tax Assessor.

§ 4649. Notices

Any notice required to be given by the State Tax Assessor pursuant to this chapter to any person may be served personally, or by sending the same by registered or certified mail to the person for whom it is intended, addressed to such person at the address given in the declaration of value or his last known abode.

§ 4650. Enforcement; priority of tax.

The tax and interest imposed by this chapter shall be recoverable by a civil action in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer.

§ 4651. Penalty for recording without tax.

Any register of deeds who shall record any deed upon which a tax is imposed by this chapter without collecting tax or obtaining the declaration of value required by this chapter shall, upon conviction, be punished by a fine of not more than \$200.

§ 4652. Penalty for falsifying declaration of value.

Any person who willfully falsifies the consideration or value prescribed by section 4645 or refuses to permit the State Tax Assessor, or any of his agents or representatives to inspect such property, books, papers, records or memoranda within 2 years after recording, or alters, cancels or obliterates any part thereof, or makes any false entry therein shall be punished by a fine of not more than \$1,000, or by imprisonment for less than one year, or by both.

§ 4653. No effect on recordation

Failure to comply with the requirements of this chapter shall in no way affect the validity of any recorded instrument or the validity of any recordation.

Sec. 2. R. S., T. 36, c. 712, repealed. Chapter 712 of Title 36 of the Revised Statutes, as enacted by section 1 of chapter 537 of the public laws of 1967, and as amended, is repealed.

Sec. 3. Validation. All deeds and other instruments recorded under the Revised Statutes, Title 36, sections 4651 to 4654 between March 1, 1968 and October 15, 1971, are validated.

**Sec. 4. Appropriation.** There is appropriated to the Bureau of Taxation to carry out the purposes of this Act, the sum of \$6,560 for the fiscal year ending June 30, 1972 and the sum of 5,450 for the fiscal year ending June 30, 1973. The breakdown shall be as follows:

	1971-72		1972-73
BUREAU OF TAXATION			
Personal Services	(1) \$4,460	(1)	\$4,650
All Other	800		800
Capital Expenditures	1,300		—
	<hr/>		<hr/>
	\$6,560		\$5,450

**Sec. 5. Effective date.** This Act shall become effective on October 15, 1971.

STATEMENT OF FACT

This legislation will strengthen the administration of the local property tax and the establishment of state valuation by facilitating the availability of sales price data for sales-assessment ratio studies.