

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1663

H. P. 1193

House of Representatives, March 17, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mrs. Goodwin of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT to Relieve Certain Elderly Householders from Extraordinary
Property Tax Burdens.**

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

Whereas, many of Maine's senior citizens are in urgent need of immediate and meaningful relief from inequitable property tax burdens; and

Whereas, in order to file a claim under this Act for the tax year ending March 31, 1971, the claim must be in the possession of the Bureau of Taxation on or before July 1st; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 36, c. 105, sub-c. IV-A, additional. Chapter 105 of Title 36 of the Revised Statutes is amended by adding a new subchapter IV-A, to read as follows:

SUBCHAPTER IV-A

TAX RELIEF ACT OF 1971

§ 661. Short title

This subchapter may be cited as the "Tax Relief Act of 1971."

§ 662. Purpose

The purpose of this subchapter is to provide relief, through a system of income tax credits and refunds or appropriations from the General Fund or a combination thereof to certain elderly persons who own or rent their homestead.

§ 663. Definitions

As used in this subchapter :

1. **Claimant.** "Claimant" means a person who has filed a claim under this subchapter and was domiciled in this State during the entire tax year preceding the year in which he files claim for relief under this subchapter. In the case of claim for rent constituting property taxes accrued, the claimant shall have rented property during the entire preceding tax year in which he files for relief under this subchapter and shall have occupied the same residence quarters for at least 6 months of the preceding tax year. 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.

2. **Gross rent.** "Gross rent" means rental paid at arms-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 arms-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.

3. **Homestead.** "Homestead" means the dwelling, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multi-dwelling or multi-purpose 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. It does not include personal property, such as furniture, furnishings or appliances, but a mobil home may be a homestead.

4. **Household.** "Household" means a claimant and spouse and members of the household for whom the claimant under this subchapter is entitled to claim an exemption as a dependent under the Internal Revenue Code of the United States for the year for which relief is requested.

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

6. **Income.** "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of the United States, 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 Federal Social Security Act, state unemployment insurance laws, and veterans disability pensions, nontaxable interest received from the Federal Government or any of its instrumentalities, workman's compensation and the gross amount of "loss of time" insurance, cash public assistance and relief, but not including relief granted under this subchapter. It does not include gifts from non-governmental sources or surplus foods or other relief in kind supplied by a governmental agency.

7. **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, 1970 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 multi-purpose or multi-dwelling 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 subchapter "unit" refers to the parcel of property separately assessed of which the homestead is a part.

8. **Rent constituting property taxes accrued.** "Rent constituting property taxes accrued" means 20% 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 subchapter by the claimant.

9. **Tax year.** "Tax year" means April 1st to March 31st.

§ 664. Claim is personal

The right to file claim under this subchapter shall be personal to the claimant and shall not survive his death, but such 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 executor or administrator, but if neither is appointed and qualified within 2 years of the filing of the claim, the amount of the claim shall escheat to the State.

§ 665. Claim as income tax credit or rebate

Subject to the limitations provided in this subchapter, a claimant may claim in any year as a credit against Maine income taxes otherwise due on his income, property taxes accrued, or rent constituting property taxes accrued, or both in the preceding tax year. If the allowable amount of such claim exceeds the income taxes otherwise due on claimant's income, or if there are no Maine income taxes due on claimant's income, the amount of the claim not used as an offset against income taxes after certification by the State Tax Assessor shall be paid to claimant from the General Fund. No interest shall be allowed on any payment made to a claimant pursuant to this subchapter.

§ 666. Filing date

No claim with respect to property taxes accrued or with respect to rent constituting property taxes accrued shall be paid or allowed, unless the claim is actually filed with and in the possession of the Bureau of Taxation on or before the following July 1st.

§ 667. Satisfaction of outstanding liabilities

The amount of any claim otherwise payable under this subchapter may be applied by the Bureau of Taxation against any liability outstanding on the books of the department against the claimant, or against his or her spouse who was a member of the claimant's household in the year to which the claim relates.

§ 668. One claim per household

Only one claimant per household per year shall be entitled to relief under this subchapter.

§ 669. Income limitation

No relief otherwise available shall be granted to claimants with household income in excess of \$4,000 in the calendar year within which falls April 1st of the tax year for which relief is requested.

§ 670. Age limitation

No claim shall be granted which is otherwise allowable under this subchapter unless at least one male member of the household shall have attained the age of 65 or one female member the age of 62 before or during the tax year for which relief is requested and no less than 35% of the household income is attributable to members of the household age 65 or older.

§ 671. Limits

The amount of any claim pursuant to this subchapter shall be determined as follows:

1. Income \$1,500 or less. If the household income of the claimant's household was \$1,500 or less in the calendar year within which falls April 1st of the tax year to which the claim relates, the claim shall be limited to 75% of the amount by which the property taxes accrued or rent constituting property taxes accrued in such tax year on the claimant's homestead is in excess of 2% of such household income exceeding \$500 but not exceeding \$1,000, and 4% of such household income over \$1,000.

2. Income more than \$1,500. If the household income of the claimant's household was more than \$1,500 in the calendar year within which falls April 1st of the tax year to which the claim relates, the claim shall be limited to 60% of the amount by which the property taxes accrued, or rent constituting property taxes accrued in such tax year on the claimant's homestead is in excess of 2% of such household income exceeding \$500 but not exceeding \$1,000, 4% of such household income exceeding \$1,000 but not exceeding \$1,500, 7% of such household income exceeding \$1,500 but not exceeding \$2,000, 9% of such household income exceeding \$2,000 but not exceeding \$2,500, 12% of such household income exceeding \$2,500 but not exceeding \$3,000, 14% of such household income exceeding \$3,000 but not exceeding \$3,500, and 17% of such household income over \$3,500.

3. Tables. The State Tax Assessor shall prepare a table under which claims under this subchapter shall be determined. The amount of claim as shown in the table for each bracket shall be computed only to the nearest 10¢.

4. Amount claimed. The claimant, at his election, shall not be required to record on his claim the amount claimed by him. The claim allowable to persons making this election shall be computed by the Bureau of Taxation, which shall notify the claimant by mail of the amount of his allowable claim.

§ 672. Administration

The State Tax Assessor shall make available suitable forms with instructions for claimants, including a form which may be included with or as a part of the individual income tax blank. The claim shall be in such form as the State Tax Assessor may prescribe.

§ 673. Proof of claim

Every claimant under this subchapter shall supply to the Bureau of Taxation, in support of his claim, reasonable proof of rent paid, name and address of owner or managing agent of property rented, property taxes accrued, changes of homestead, household membership, household income, size and nature of property claimed as the homestead and a statement that the property taxes accrued and used for purposes of this subchapter have been or will be paid by him and that there are no delinquent property taxes on the homestead.

§ 674. Audit of claim

If on the audit of any claim filed under this subchapter 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.

§ 675. 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 or a credit has been allowed against income taxes otherwise payable, the credit shall be canceled and 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, is guilty of a misdemeanor. 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 or credited against income taxes otherwise payable, the credit shall be reduced or canceled, and 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 or paid.

§ 676. Rental determination

If a homestead is rented by a person from another person under circumstances deemed by the State Tax Assessor to be not at arms-length, he may determine rent constituting property taxes accrued as at arms-length, and, for purposes of this subchapter, such determination shall be final.

§ 677. Appeals

Any person aggrieved by the denial in whole or in part of relief claimed under this subchapter, except when denial is based upon late filing of claim for relief may appeal the denial to the Administrative Hearing Commissioner by filing a petition within 30 days after such denial.

§ 678. Public welfare recipients excluded

No claim for relief under this subchapter shall be allowed to any person who is a recipient of public funds for the payment of the taxes or rent during the period for which the claim is filed.

§ 679. Disallowance of certain claims

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

§ 680. 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.

Sec. 2. R. S., T. 36, §§ 657 - 659, repealed. Sections 657 to 659 of Title 36 of the Revised Statutes, as enacted by chapter 444 of the public laws of 1969, are repealed.

Sec. 3. Appropriation. There is appropriated from the General Fund to the Department of Finance and Administration, Bureau of Taxation, the sum of \$3,341,500 for the fiscal year ending June 30, 1972 to carry out the purposes of this Act. The breakdown shall be as follows:

1971-72

FINANCE AND ADMINISTRATION,
DEPARTMENT OF

Bureau of Taxation	
Personal Services	(6) \$ 38,000
All Other	3,300,000
Capital Expenditures	3,500
	<hr/>
	\$3,341,500

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This Act would provide partial reimbursements directly from the State to elderly citizens with household incomes of \$4,000 and under, the amount of the rebates depending upon the level of income and property taxes accrued or rent constituting property taxes accrued.

The estimated cost of this legislation for the biennium is \$6,864,000. Funds sufficient for the administration of this Act for the 2nd year of the biennium are provided in the executive budget.