

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 2277**

H. P. 1797

House of Representatives, January 2, 1974

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Martin of Eagle Lake.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

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**AN ACT Relating to Property Tax Appeals.**

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

Whereas, conflicting provisions with respect to property tax appeals were enacted in sections 17 through 20 of chapter 592 of the public laws of 1973 and in section 10 of chapter 620 of the public laws of 1973; and

Whereas, this conflict creates uncertainty as to the manner in which such appeals are to be taken; 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, § 565, reenacted.** Section 565 of Title 36 of the Revised Statutes, as enacted by section 1 of chapter 426 of the public laws of 1965 and as repealed by section 5 of chapter 592 of the public laws of 1973, is reenacted to read as follows:

**§ 565. Forestry Appeal Board**

To further implement sections 563 and 564, there shall be created a Forestry Appeal Board, composed of 3 members; one selected by the aggrieved

owner, one selected by the assessors of the municipality wherein the land lies, and one shall be the Director of the Bureau of Forestry or a person designated by him; all such members to be designated from among persons deemed by the appointing authority to be knowledgeable in forest land values. The board shall elect a chairman. Each member shall be compensated for time spent in service on the board and actual expenses incurred from funds available representing his agency or aggrieved landowner. Prior to any hearing, such owner shall pay to the Director of the Bureau of Forestry a sum of \$25 to assure his appearance at such hearing, which sum shall be refunded to the owner upon his appearance. The municipality shall pay its share of the costs upon notification of the amount by the Director of the Bureau of Forestry following the conclusion of the activities of the board. Any amount remaining unpaid may be added to the next state tax levied against such municipality or may be recovered in a civil action brought in the name of the Treasurer of State.

Sec. 2. R. S., T. 36, § 583, sub-§ 2, repealed and replaced. Subsection 2 of section 583 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, and as amended by section 18 of chapter 308, and as repealed and replaced by section 6 of chapter 592, both of the public laws of 1973, is repealed and the following enacted in place thereof:

2. Appeal to Forestry Appeal Board. Any person aggrieved by the decision of a municipal assessor upon such petition may, within 30 days after notice thereof from the municipal assessor, or after the petition shall be deemed to have been denied, appeal therefrom to the Forestry Appeal Board established by section 565 and the Forestry Appeal Board may amend or reaffirm such determinations as the board sees fit and may order a refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid; which amounts shall be paid out of the municipal treasury, if there are funds available, and if not, payment shall be made in the following tax year. If the Forestry Appeal Board fails to give written notice of its decision within 90 days of the filing of such an appeal, the appeal shall be deemed to have been denied, and the applicant may appeal as provided, unless the applicant shall in writing have consented to further delay. The application to the Forestry Appeal Board shall be filed with the Director of the Bureau of Forestry with a copy to the assessors of the municipality concerned, and shall include the name and address of the Forestry Appeal Board member selected by the applicant. Section 843-B shall apply to such proceedings.

Sec. 3. R. S., T. 36, 583, sub-§ 3, repealed and replaced. Subsection 3 of section 583 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, and as amended by section 18 of chapter 308, as amended by section 22 of chapter 536 and as repealed and replaced by section 6 of chapter 592, all of the public laws of 1973, is repealed and the following enacted in place thereof:

3. Appeal to Superior Court. The applicant may appeal from the decision of the State Tax Assessor under subsection 1 or of the Forestry Appeal Board

under subsection 2 to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure in the county where the land or any part of the land is located. The applicant shall, when such appeal is taken, file an affidavit stating his reasons for appeal and serve a copy thereof on the assessor, and in the hearing of the appeal, shall be confined to the reasons of appeal set forth in such affidavit. Jurisdiction is granted 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 de novo and shall be final. An appeal may be taken to the law court as in all other actions. Decisions shall be certified forthwith by the clerk of courts to the assessor.

Sec. 4. R. S., T. 36, § 843-A, reenacted. Section 843-A of Title 36 of the Revised Statutes, as enacted by section 2 of chapter 426 of the public laws of 1965, and as amended by section 247 of chapter 625, and repealed by section 15 of chapter 592, both of the public laws of 1973, is reenacted to read as follows:

#### § 843-A. Appeals to Forestry Appeal Board

Where the property subject to tax is forestland, as defined in section 564 if the assessors refuse to make the abatement asked for, the applicant may apply in writing to the Forestry Appeal Board within 90 days after notice of the decision from which such appeal is being taken or after the application shall be deemed to have been denied, and if the board thinks he is over-assessed, he shall be granted such reasonable abatement as they think proper, and if he has paid the tax he shall be reimbursed out of the municipal treasury, if there are funds available and if not, payment shall be made in the following tax year.

The application to the Forestry Appeal Board shall be filed with the Director of the Bureau of Forestry, with a copy to the assessors of the municipality concerned, and shall include the name and address of the Forestry Appeal Board member selected by the applicant. Either party may appeal from the decision of said board to the Superior Court.

Sec. 5. R. S., T. 36, § 843-B, reenacted. Section 843-B of Title 36 of the Revised Statutes, as enacted by section 2 of chapter 426 of the public laws of 1965, and as repealed by section 15 of chapter 592 of the public laws of 1973, is reenacted to read as follows:

#### § 843-B. Hearing

On receipt of an application for review by the Forestry Appeal Board, the Director of the Bureau of Forestry shall notify the applicant of the review and shall secure the designation of the 2 other members of the board for the case in question, and with the approval of the board members, designate a time and place for hearing and make such other arrangements for such hearing as may be necessary. The board may summons witnesses, administer oaths, order the production of books, records, papers and instruments and direct the production of any evidence it deems necessary in order to make a decision. The technical rules of evidence shall not apply at such hearings. The decision of the board shall be filed with the Director of the Bureau of Forestry who

shall notify the county commissioners and the assessors of the municipality in question. The assessors of such municipality, upon receipt of such decision, shall record the same and make such abatement or refund, if any, as may be required thereby.

Sec. 6. R. S., T. 36, § 844, repealed and replaced. Section 844 of Title 36 of the Revised Statutes, as amended by section 25 of chapter 536, and as repealed by section 16 of chapter 592 and as amended by section 248 of chapter 625, all of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 844. — to county commissioners

Except where the municipality has adopted a board of assessment review, if the assessors refuse to make the abatement asked for, the applicant may apply to the county commissioners at their next meeting occurring after notice of the decision from which such appeal is being taken or after the application shall be deemed to have been denied, and if they think that he is over-assessed, he shall be granted such reasonable abatement as they think proper, and if he has paid the tax he shall be reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the Superior Court, and issue their warrant of distress against him for collection of such amount as may be due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made, or a copy of it. Either party may appeal from the decision of said county commissioners to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 7. R. S., T. 36, §§ 844-A - 844-L, repealed. Sections 844-A through 844-L of Title 36 of the Revised Statutes, as enacted by section 17 of chapter 592 of the public laws of 1973, are repealed.

Sec. 8. R. S., T. 36, § 846, amended. The first sentence of section 846 of Title 36 of the Revised Statutes, as repealed by section 125-A of chapter 622 of the public laws of 1971, and as reenacted by section 18 of chapter 592 of the public laws of 1973, is amended to read as follows:

The appeal provided for in ~~section 844-L~~ sections 844 and 845 shall be taken within 30 days after notice of the decision from which the appeal is being taken, or within 30 days after the application shall be deemed to have been denied.

Sec. 9. R. S., T. 36, § 848, amended. The first sentence of section 848 of Title 36 of the Revised Statutes, as amended by section 19 of chapter 592 of the public laws of 1973, is further amended to read as follows:

The appeal provided for in ~~section 844-L~~ sections 844 and 845 shall be tried at the first term held not less than 10 days after notice has been given, unless delay shall be granted at the request of the municipality for good cause, and said court shall, if requested by the municipality, advance the case upon the docket so that it may be tried and decided with as little delay as possible.

**Sec. 10. R. S., T. 36, § 849, amended.** The first paragraph of section 849 of Title 36 of the Revised Statutes, as amended by section 20 of chapter 592 and section 250 of chapter 625, both of the public laws of 1973, is repealed and the following enacted in place thereof:

**If upon the trial provided for in sections 845, 847 and 848 it appears that the applicant has complied with all provisions of law, he may be granted such abatement as the court deems reasonable, under the same circumstances as an abatement may be granted by the county commissioners.**

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

#### STATEMENT OF FACT

Chapter 592 of the public laws of 1973 enacted a State Board of Assessment Review to hear property tax appeals, replacing the Forestry Appeal Board and the county commissioners as administrative review tribunals, effective October 3, 1973.

Chapter 620 of the public laws of 1973 also enacted a State Board of Assessment Review to hear property tax appeals, replacing existing administrative review tribunals; but specifically retained existing appeal procedures until such time as a municipality became incorporated in a primary assessing area.

The bill resolves this conflict by repealing the appeal provisions of chapter 592 and reenacting the appeal provisions of chapter 620, thus making the new appeal procedures operative only as primary assessing areas are established.