

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND SEVENTH LEGISLATURE

---

---

Legislative Document

No. 1671

---

---

S. P. 481

In Senate, April 8, 1975

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Merrill of Cumberland.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

---

**AN ACT to Provide State Relief to Householders for Extraordinary  
Property Tax Burdens.**

---

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

Sec. 1. 36 MRSA Pt. 9-A is enacted to read:

**PART 9-A**

**PROPERTY TAX RELIEF**

**CHAPTER 903**

**EXTRAORDINARY PROPERTY TAX RELIEF**

§ 6171. Short title

This Act may be cited as the "Extraordinary Property Tax Relief Act."

§ 6172. Purpose

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

§ 6173. Definitions

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

1. Claimant. "Claimant" means a person who has filed a claim under this chapter and was domiciled in this State for the entire calendar year for which he files claim for relief under this chapter. When 2 or more in-

dividuals of a household are able to meet the qualifications for a claimant, they may determine among themselves 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 actually paid in cash or its equivalent solely for the right of occupancy, at arms-length, of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal appliances furnished by the landlord as a part of the rental agreement. When a claimant occupies 2 or more homesteads in the year and does not own his homestead as of the levy date, gross rent shall mean the total rent paid for the homestead most recently rented multiplied by a number whose numerator is 12 and whose denominator is the number of months said homestead has been rented by the claimant.

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 chapter.

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 one or more joint tenants in common. It does not include personal property such as furniture, furnishings or appliances but a mobile home or a houseboat may be a homestead.

4. Household. "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

5. Household income. "Household income" means all income received by all persons of a household in a calendar year while members of the household, less an amount equal to \$750 multiplied by the number of persons who constitute the household. However, for purposes of this chapter, household income shall not be less than zero.

6. Income. "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of the United States and all nontaxable income, including but not limited to the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief, not including relief granted under this chapter, the gross amount of any pension or annuity, including Railroad Retirement Act benefits and veterans disability pensions, all payments received under the federal social security and state unemployment insurance laws, nontaxable interest received from the Federal Government or any of its instrumentalities, workman's compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus foods or other relief in kind supplied by a public or private agency.

7. Property taxes accrued. "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in this State in 1975 or any calendar year thereafter. For purposes of this subsection property taxes are levied when the tax roll is delivered to the local treasurer for collection. If a claimant owns his homestead on the levy date "property taxes accrued" means taxes levied on such levy date, even if claimant does not own his homestead for the entire year.

When a household owns and occupies 2 or more different homesteads in this State in the same calendar year, property taxes accrued shall relate only to that property occupied by the household as a homestead on the levy date. If a homestead is an integral part of a large unit such as a farm, or a multi-purpose or multi-dwelling building, property taxes accrued shall be that of percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subsection, unit refers to the parcel of property covered by a single tax statement of which the homestead is a part.

8. Rent constituting property taxes accrued. "Rent constituting property taxes accrued" means 20% of the gross rent.

#### § 6174. Claim is personal

The right to file a claim under this chapter 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.

#### § 6175. Claim as rebate from state funds

Subject to the limitations provided in this chapter, a claimant may claim in any year a rebate for property taxes accrued or rent constituting property taxes accrued in the preceding year. The amount of the rebate, after audit or certification by the State Tax Assessor shall be paid to claimant from balances retained by the Treasurer of State for general purposes.

#### § 6176. 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 State Tax Assessor on or after January 1st and on or before the following April 15th. Subject to the same conditions and limitations, claims may be filed on or after January 1st and on or before the following April 15th with respect to property taxes accrued of the next preceding calendar year.

§ 6177. Satisfaction of outstanding tax liabilities

The amount of any claim otherwise payable under this chapter may be applied by the State Tax Assessor 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.

§ 6178. One claim per household

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

§ 6179. Computation of credit

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

1. Entitlement. For any taxable year, a claimant shall be entitled to a credit equal to 60% of the amount by which the property taxes, or rent constituting property taxes, upon the individual's homestead for the taxable year exceeds a percentage of the individual's income for the taxable year determined according to the following schedule:

If Household Income (Rounded to the Nearest Income) is:	Then the Taxpayer is Entitled to Credit for Property Tax Paid in Excess of this Percent of that Income
\$ 3,999	4.0%
4,000 - 7,999	4.5
8,000 - 11,999	5.0
12,000 - 15,999	5.5
16,000 - and up	6.0

2. Limitation. No credit or grant under this chapter shall exceed \$500.

3. Table for claim determination. The State Tax Assessor shall prepare a table under which claims under this chapter shall be determined. The table shall be published in the department's official rules and shall be placed on the appropriate forms. The amount of claim as shown in the table for each bracket shall be computed only to the nearest dollar.

4. Claimant's recording of claim not required. 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 department, which shall notify the claimant by mail of the amount of his allowable claim.

§ 6180. Administration

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

**§ 6181. Proof of claim**

Every claimant under this chapter shall supply to the State Tax Assessor 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 and a statement of the property taxes accrued and used for purposes of this chapter which have been or will be paid by him and that there are no delinquent property taxes on the homestead.

**§ 6182. 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 reason for it. The redetermination shall be final unless appealed within 30 days of notice.

**§ 6183. 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, as income taxes are assessed, and the assessment shall bear interest from the date of payment 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, as income taxes are assessed, and the assessment shall bear interest at 1% per month from the date of payment until refunded or paid.

**§ 6184. 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 chapter, such determination shall be final.

**§ 6185. Appeals**

Any person aggrieved by the denial in whole or in part of relief claimed under this chapter, except when the denial is based upon late filing of claim for relief or is based upon a redetermination of rent constituting property taxes accrued as at arms-length, may appeal the denial to the administrative court judge by filing a petition within 30 days after such denial.

**§ 6186. Public welfare recipients excluded**

No claim for relief under this chapter 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.

§ 6187. 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 chapter.

§ 6188. 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.

§ 6189. Initial filing of claims

No claim shall be filed under this chapter prior to January 1, 1978.

Sec. 2. 36 MRSA Pt. 9, as amended, is repealed.

**Referendum; effective date.** This Act shall take effect 90 days after the adjournment of the Legislature only for the purpose of presenting it to the legal voters of the State of Maine at the next general election in the month of November following the passage of this Act.

The aldermen of the cities, the selectmen of the towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next general election in the month of November following the passage of this Act, to give in their votes upon the acceptance or rejection of the foregoing Act, and the question shall be:

“Shall ‘AN ACT to Provide State Relief to Householders for Extraordinary Property Tax Burdens’ become law?”

The inhabitants of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of acceptance voting “Yes” and those opposed to acceptance voting “No” and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same and if it shall appear that a majority of the inhabitants voting on the question are in favor of said Act, the Governor shall forthwith make known the fact by his proclamation and the Act shall thereupon become effective March 31, 1977.

**Secretary of State shall prepare ballots.** The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing Act, accompanied by a copy thereof.

## FISCAL NOTE

This Act will require no appropriations in this biennium.

In very approximate figures, it is estimated that the cost of the rebates or credits would be between \$18,000,000 and \$20,000,000. The cost of administration would be about \$200,000 or greater.

## STATEMENT OF FACT

This bill will allow the voters of Maine a chance to provide for relief from extraordinary property tax burdens by means of a property tax circuit breaker. As has been stated in "Property Tax Circuit Breakers: Current Statutes and Policy Issues," published by the Advisory Commission on Intergovernmental Relations, property tax circuit breakers are tax relief programs designed to protect family income from property tax 'overload' the same way that an electrical circuit breaker protects the family home from current overload. Usually, when the property tax bill, or the tax equivalent for renters, exceeds a set percentage of household income, the circuit breaker goes into effect and relief is granted from the "excess" taxes.

This bill extends the relief provided for by the Elderly Householders Tax and Rent Refund Act, to the elderly receiving payments under the supplemental security income program. It will also extend property tax relief to all property taxpayers with an extraordinary tax burden.

As Property Tax Circuit Breakers states: "On equity grounds, there is no clear justification for limiting property tax relief to persons on the basis of age—or any other physical characteristic. Presumably, this is done to restrict coverage to those groups most likely to need tax relief. An advantage of the circuit breaker, however, is that objective criteria of need for property tax relief relating taxes to income can be applied, and relief can be targeted to those who need such relief rather than having to rely on age and other proxies for need. Younger families with low incomes may be just as deserving of relief as the elderly. Indeed, some would argue that many elderly are better off than working-age families at the same income level when consideration is given to the usually greater family responsibilities of the nonelderly, cost associated with working, double income tax exemptions granted the elderly, etc. If the objective of the circuit breaker program is to prevent excessive property tax burdens in relation to income, there is no logical reason for limiting participation to the elderly. Equity requires that nonelderly as well be included."

This bill proposes a property tax circuit breaker available to all the people of Maine, including her working people, which would relieve them of severe property tax burdens. This bill would provide relief for elderly who are overburdened with property taxes, as well as for others. This bill repeals the Elderly Householders Tax and Rent Refund Act.

The Provisions of this bill conform a model bill suggested for enactment by the Advisory Council on Intergovernmental Relations, a permanent na-



tional bipartisan body representing the legislative and executive branches of Federal, State and local government and the public.

This bill requires the approval of the voters at a referendum to be held at the next general election in order for the bill to become effective.