

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2150

S. P. 675

In Senate, February 2, 1976

Referred to the 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-SIX

AN ACT to Provide State Relief to Householders Whose Property Taxes are an Extreme Burden Due to Such Householders' Insufficient Yearly Income.

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

RELIEF FOR EXTREMELY BURDENSOME PROPERTY TAXES

§ 6171. Short title

This Act may be cited as the "Property Tax Circuit Breaker Act."

§ 6172. Purpose

The purpose of this chapter is to provide property tax relief, through a system of refunds from an appropriation for this Act of \$10,000,000 from the General Fund, to certain resident individuals who own or rent their homesteads and who pay an amount of property tax, or rent constituting property taxes, which is higher than a certain percentage of their household incomes as determined by use of the schedule in section 6179.

§ 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 and owned or rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this chapter. When 2 or more individuals 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 April 1st of the year for which relief is requested, 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 a claimant's principal dwelling, situated within the State of Maine, 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, intrafamily gifts, 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 non-governmental 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 assessment, delinquent interest and charges for services levied on a claimant's homestead in this State as of April 1, 1976 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 is 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 of the year next preceding the filing dates for claims multiplied by the percentage of 12 months that the 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 of the year next preceding the filing dates for claims.

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 chapter, "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" consists of a fixed percentage of 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 chapter by the claimant. The fixed percentages are as follows:

A. If the claimant applies for the entitlement for low income elderly, 25% of the gross rent; or

B. If the claimant applies for the entitlement for all others, 20% of the gross rent.

9. Year for which relief is requested. "Year for which relief is requested" means the calendar year preceding that in which the claim is filed.

10. Low income elderly. For the purpose of this chapter, "low income elderly" means a claimant who has attained at least the age of 62 during the year for which relief is requested and whose income does not exceed \$4,500

if a single member household or \$5,000 if a household with 2 or more members.

§ 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 a claimant beginning in August of the filing year from balances retained by the Treasurer of State for general purposes. No interest shall be allowed on any payment made to a claimant pursuant to this chapter.

§ 6176. Filing date

Subject to the limitations and conditions of this chapter, no claim with respect to property taxes accrued or with respect to rent constituting property taxes accrued, of the next preceding calendar year, shall be paid or allowed unless the claim is filed with and is in possession of the State Tax Assessor on or after January 1st and on or before the following April 15th.

§ 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 refund

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

1. Entitlement for low income elderly. For a claimant who has attained the age of 62 during the year for which relief is requested and where income as determined by section 6173, subsection 6 does not exceed \$4,500 if a single member household or \$5,000 if a household with 2 or more members, the claim

shall be limited to the amount by which property taxes accrued or rent constituting property taxes accrued in such tax year upon the claimant's homestead is in excess of 21% of such household income which exceeds \$3,000, but does not exceed \$5,000.

2. Qualifications for all others. For any taxable year, a claimant shall be qualified for a refund 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

3. Limitation. No refund or grant under this chapter shall exceed \$500. In no event shall the refund exceed the amount of the property tax.

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 Bureau of Taxation, which shall notify the claimant by mail of the amount of his allowable claim.

5. Ineligible claimants. An individual may not be a claimant if he is under 18 years of age or a full-time or part-time student claimed as a dependent by any taxpayer under the Federal Internal Revenue Code.

6. Disbursal of rebates. In the event that the total qualified claims exceed the amount appropriated by the Legislature to fund this chapter, the funds shall be disbursed as follows:

A. Claimants qualified under "entitlement for low income elderly" shall be paid;

B. Those claiming under "qualifications for all others" shall be paid in the order of "household income," lowest first; the claims being paid in this way until there are not sufficient funds to pay all who claim at the next level of household income.

§ 6180. Administration

The State Tax Assessor shall make available suitable forms with instructions for claimants. The claim shall be in such form as the State Tax Assessor may prescribe and shall be signed by the claimant under the pain and penalty of perjury. Those claimants who file state income tax forms shall use the tear-off section of that income tax form, which will be provided for the purpose of this Act by the State Tax Assessor, in order to file claim for

a property tax rebate. It is the intent of the Legislature to eliminate the cost and inconvenience of the filing of 2 forms by those who do file state income tax forms.

§ 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. Claimants who file under this chapter for property taxes accrued through homestead ownership shall include a copy of their receipt of property taxes paid with their applications for rebates. The local property tax collector shall provide 2 receipts to the taxpayer for taxes paid. The State Tax Assessor shall have authority to request a receipt of rent paid from claimants filing for rebates for rent constituting property taxes under this chapter.

§ 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, the rebate shall be canceled and the amount paid may be recovered by assessment, 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, the rebate 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.

§ 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 the 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 at arms-length, may appeal the denial to the Administrative Court Judge by filing a petition within 30 days after the 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 Bureau of Taxation 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 2 months the time for filing a claim.

§ 6189. Initial filing of claims

No claim shall be filed under this chapter prior to January 1, 1977.

§ 6190. Rules and regulations

The State Tax Assessor may establish those rules and regulations necessary for the effective administration of this chapter.

Sec. 2. 36 MRSA Part 9, as enacted by PL 1971, c. 503, § 1, and as amended, is repealed.

Sec. 3. Effective date. Section 2 of this Act shall become effective January 1, 1977.

FISCAL NOTE

This Act will require no appropriations until the next biennium.

The amount that will have to be appropriated for this program is \$10,000,000 per year.

STATEMENT OF FACT

This bill, a recommendation of the Governor's Tax Policy Committee, provides relief for Maine citizens, both elderly and nonelderly, from extraordinary property tax burdens by means of a property tax circuit breaker. As is stated in **Property Tax Circuit Breakers: Current Status and Policy Issues**,

published by the Advisory Commission on Intergovernmental Relations, property tax circuit breaks become effective when the property tax is high in relationship to income and thus prevents property tax "overloads" without cutting off the flow of revenue from those able to need pay relief. When the property tax bill, or "rent constituting property tax accrued," exceeds a set percentage of household income, the circuit breaker goes into effect, and some relief is granted from this excess tax.

This bill not only extends relief to the elderly, presently provided for under the Elderly Householders Tax and Rent Refund Act, but also to all property taxpayers and renters with extraordinary tax burdens. The "Elderly Act" would therefore be repealed.

As the above publication states, "the property tax can quickly create a disproportionate claim on a family's financial resources once retirement, the death or physical disability of the breadwinner, unemployment," or low paying jobs "reduce sharply the flow of income. Local governments as a rule have neither the legal authority nor the fiscal capacity to alleviate the potential property tax over-burden situations, but States have both."

As **Property Tax Circuit Breakers** also 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. Young 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 would refund to the qualified claimant after August 1st succeeding the filing dates (January 1st to April 15th). For those filing income tax forms, a tear-off section will be provided for application; for all others, special forms will be available. If the total qualified claims exceed the \$10,000,000 appropriated by the Legislature, the funds will be disbursed to elderly first, and then to all others in order of household income, lowest first. The refunds will be paid out until there are not sufficient funds to pay all who claim at the next level of household income.

This bill conforms to a model bill suggested for enactment by the Advisory Council on Intergovernmental Relations, a permanent national bipartisan body representing the legislative and executive branches of Federal, State and local government as well as the general public.