

# MAINE STATE LEGISLATURE

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New Draft of H. P. 1959, L. D. 2147  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 2349

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H. P. 2312

House of Representatives, April 9, 1976

Reported by Mr. Drigotas from Committee on Taxation and printed under  
Joint Rules No. 18.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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AN ACT Providing for Administrative Corrections in Tax Laws.

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

Sec. 1. 36 MRSA §§ 71, 72 and 73, as enacted by PL 1973, c. 592, § 3, and as amended by P & SL 1975, c. 78, § 21, are repealed.

Sec. 2. PL 1973, c. 592, § 4, is repealed.

Sec. 3. 36 MRSA § 252 is amended to read:

§ 252. Time for issuance

When a state tax is ordered by the Legislature, the Treasurer of State shall send his warrants directed to the assessors of each municipality, as soon after the first day of April as is practicable, requiring them to assess upon the polls and estates of such municipality its proportion of the state tax for the current year; and shall in a like manner for the succeeding year, send like warrants for the state tax.

Sec. 4. 36 MRSA § 292, as last amended by PL 1975, c. 272, § 33, and PL 1975, c. 545, § 3, and repealed and replaced by PL 1975, c. 628, § 2, is repealed and the following enacted in place thereof:

§ 292. Duties, procedures

The Municipal Valuation Appeals Board shall hear appeals by any municipality deeming itself aggrieved by the Bureau of Taxation's determination of equalized valuation or minimum assessing standards and render its decision based upon the recorded evidence.

Any municipality deeming itself aggrieved shall file a written notice of appeal within 45 days of notification of the Bureau of Taxation's decision.

The appeal to the board shall be in writing signed by a majority of the municipal officers, and shall be accompanied by an affidavit stating the grounds for appeal. A copy of the appeal and affidavit shall be served on the Bureau of Taxation and the bureau shall have the burden of proving that its determination is correct with respect to that municipality.

The board shall hear such an appeal within a reasonable time of the filing of the appeal by the municipality and shall render its decision no later than January 15th following the date on which the appeal is taken. The board shall order notice of hearing and give at least 5 days' notice prior to hearing thereof to the municipality and to the Bureau of Taxation. The board, after hearing, shall have the power to:

1. Raise, lower or sustain state valuation. Raise or lower or sustain the state valuation as determined by the Bureau of Taxation with respect to the municipality which has filed the appeal. The decision of the board shall be final. The valuation thus determined shall be certified to the Bureau of Taxation which shall, if necessary, incorporate the decision in the valuation certified pursuant to section 305, subsection 1.

2. Raise, lower or sustain Bureau of Taxation's determination. Raise or lower or sustain the Bureau of Taxation's determination of the municipality's achieved assessing standards and then, if such achieved standards were inadequate under the provisions of this chapter and upon receiving from both the bureau and the municipality recommended solutions to the inaccurate assessing practices, order the municipality to take the corrective steps the board deems necessary.

Any party aggrieved by the decision of the board may appeal pursuant to the Maine Rules of Civil Procedure, Rule 80B. The valuation thus determined shall be certified to the State Tax Assessor, who shall, if necessary, incorporate the decision in the valuation certified pursuant to section 305, subsection 1.

In the event a municipality's appeal to the Superior or Supreme Judicial Court results in a lowering of the municipality's state valuation, the Treasurer of State shall reimburse with funds appropriated from the General Fund an amount equal to the moneys lost by the municipality due to the use by the State of an incorrect state valuation in any statutory formula used to distribute state funds to municipalities.

The board shall have the power to administer oaths, take testimony, hold hearings, summons such witnesses and subpoena such records, files and documents as it deems necessary for the proper hearing and disposal of the appeal.

The board shall have the power to promulgate rules and regulations governing procedure before it.

Sec. 5. 36 MRSA § 303, sub-§ 4, as enacted by PL 1975, c. 19, § 2, is repealed.

Sec. 6. 36 MRSA § 304, sub-§ 6, as enacted by PL 1975, c. 19, § 3, is repealed.

**Sec. 7.** 36 MRSA § 486, sub-§ 1, first sentence, as enacted by PL 1973, c. 620, § 10, is amended to read:

The State Board of Assessment Review shall consist of 15 members appointed by the Governor for a term of 3 years, except for initial appointments which shall be  $\frac{1}{3}$  of the membership for one year,  $\frac{1}{3}$  of the membership for 2 years and  $\frac{1}{3}$  of the membership for 3 years.

**Sec. 7-A.** 36 MRSA § 486, sub-§ 2, first ¶, as enacted by PL 1973, c. 620, § 10, is amended to read:

2. **Powers; duties.** The State Board of Assessment Review shall have the following powers and duties:

**Sec. 8.** 36 MRSA § 486, sub-§ 5, as enacted by PL 1973, c. 620, § 10, and as amended by PL 1973, c. 695, § 9, is further amended to read:

5. **Hearings.** Three members of the State Board of Assessment Review shall constitute a quorum to hear and act upon abatement appeals.

**Sec. 9.** 36 MRSA § 486, sub-§ 6, as enacted by PL 1973, c. 620, § 10, and as amended by PL 1973, c. 695, § 10, is further amended to read:

6. **Convening of board.** Upon receipt of an appeal, the Chairman of the State Board of Assessment Review shall select from the list of board members 3 persons to hear the appeal and notify all parties of the time and place of the hearing. The selection of members for an appeal hearing shall be based upon geographic convenience and availability.

**Sec. 10.** 36 MRSA § 579, first ¶, as enacted by PL 1971, c. 616, § 8, and as amended by PL 1973, c. 308, § 10, is further amended to read:

The owner or owners of forest land subject to taxation under this subchapter shall submit a signed schedule in duplicate on or before ~~November~~ **April** 1 of the year ~~preceding that~~ in which such land first becomes subject to taxation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor, identifying the land to be taxed hereunder, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is used primarily for growth of forest products. Such schedules may be required at such other times as the assessor may designate upon 90 days' written notice.

**Sec. 11.** 36 MRSA § 579, 2nd ¶, as enacted by PL 1971, c. 616, § 8, is amended to read:

The assessor shall determine whether the land is subject to taxation hereunder, shall classify such land as to forest type, and shall notify the owner of such determination ~~prior to the following March 1st~~ **within 60 days**. If such notification is not given, the assessor shall be deemed to have denied taxation hereunder ~~on that date upon expiration of the 60 days. The land shall be so taxed until it is reclassified or is withdrawn from under this subchapter~~

**Sec. 12.** 36 MRSA § 654, sub-§ 1, ¶ E, as last amended by PL 1975, c. 623, § 53, is repealed and the following enacted in place thereof:

**E.** The estates up to the value of \$3,500 of all persons determined to be blind within the definition provided by Title 22, chapter 959, who are receiving aid under that chapter.

The residential real estate up to the value of \$3,000 of inhabitants of Maine who are legally blind as determined by the Department of Human Services, provided the value of such real estate does not exceed \$10,000. If the value exceeds \$10,000 but not more than \$20,000, the exemption shall be \$2,000. No person shall be entitled to property tax exemption under more than one paragraph of this subsection.

**Sec. 13.** 36 MRSA § 656, sub-§ 1, ¶ G, as enacted by PL 1973, c. 261, is repealed.

**Sec. 14.** 36 MRSA § 766, as last amended by PL 1973, c. 620, §§ 29 and 30, is repealed and the following enacted in place thereof:

§ 766. Warrant for completion of collection; form

The State Tax Assessor shall prescribe the form of the warrant to be used by the assessors or municipal officers for the completion of the collection of taxes under sections 763 to 765.

**Sec. 15.** 36 MRSA § 895, as last amended by PL 1973, c. 620, § 33, is repealed and the following enacted in place thereof:

§ 895. Warrant form; for completion of collection by treasurer

The State Tax Assessor shall prescribe the form of the warrant for use by the municipal treasurer where the tax collector has failed to collect and pay the taxes to the treasurer as required.

**Sec. 16.** 36 MRSA § 1285, 3rd sentence, is amended to read:

Such action shall be brought in ~~the Superior Court~~ a court of competent jurisdiction in the county where such unorganized townships are located, and the Attorney General may begin and prosecute such actions when requested by the State Tax Assessor.

**Sec. 17.** 36 MRSA § 1332 is repealed.

**Sec. 18.** 36 MRSA § 1482, sub-§ 2, as last amended by PL 1973, c. 588, § 9, is repealed and the following enacted in place thereof:

2. Tax  $\frac{1}{2}$  during certain periods. The excise tax levied in this section shall be  $\frac{1}{2}$  of the sum named in subsection 1 from November 1st to the last day of February, except for:

**A.** The excise tax levied in this section on a farm motor truck having 2 or 3 axles, when such trucks are used primarily for transportation of agricultural produce grown by the owner on his farm or farms, shall be the  $\frac{1}{2}$  the annual amount during the last 6 months of the registration year; and

**B.** The excise tax levied in this section on automobiles shall be, during the last 4 months of a registration year,  $\frac{1}{2}$  the sum named in subsection 1, paragraph C.

Sec. 19. 36 MRSA § 1752, sub-§ 11, 5th sentence, as last amended by PL 1975, c. 359 and c. 450, is repealed and the following enacted in place thereof:

“Retail sale” and “sale at retail” do not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity in the manufacture of, tangible personal property for later sale or lease, other than lease for use in this State, but shall include fuel and electricity but shall not include electricity separately metered and consumed in any electrolytic process for the manufacture of tangible personal property for later sale.

Sec. 20. 36 MRSA § 1765, as reenacted by P&SL 1969, c. 154, Sec. G, § 1 and as amended by PL 1975, c. 317, § 3 and c. 528, is repealed and the following enacted in place thereof:

§ 1765. Trade-in credit for vehicles, boats or aircraft

When one or more motor vehicles, boats, aircraft or farm tractors are traded in toward the sale price of another motor vehicle, boat, aircraft or farm tractor, the tax imposed by chapters 211 to 225 shall be levied only upon the difference between the sale price of the purchased motor vehicle, boat, aircraft or farm tractor and the sale price of the motor vehicle or vehicles, boat or boats, aircraft or farm tractor or tractors taken in trade, except for transactions between dealers involving exchange of farm tractors, boats, aircraft or motor vehicles from inventory.

Sec. 21. 36 MRSA § 1961 is repealed and the following enacted in place thereof:

§ 1961. Lien of tax

If any amount required to be paid to the State under chapters 211 to 225 is not paid when due, the Tax Assessor may file in the office of the registry of deeds of the county where such property is located with respect to real property or fixtures and in the office in which a security or financing statement or notice with respect to personal property would be filed a notice of lien specifying the amount of tax, interest, penalty and costs due, the name and last known address of the person liable for the amount and the fact that the Tax Assessor has complied with all the provisions of chapters 211 to 225 in the assessment of the tax. From the time of the filing, the amount set forth in the certificate constitutes a lien upon all property of the person liable in the county then owned by him or thereafter acquired by him in the period before the expiration of the lien. In the case of any prior mortgage on any real or personal property so written as to secure a present debt and also future advances by the mortgagee to the mortgagor, the lien herein provided, when, notice thereof has been filed in the proper office, shall be subject to the prior mortgage unless the Tax Assessor also notifies the mortgagee of the recording of the lien in writing, in which case any indebtedness thereafter created from the mortgagor to the mortgagee shall be junior to the lien herein provided for. The lien provided herein has the same force, effect and priority as a judgment lien and shall continue for 5 years from the date of filing unless sooner released or otherwise discharged. The lien may, within said 5-year period or within 5 years from the date of the last extension of the

lien in the manner provided in this section, be extended by filing for record in the appropriate office a notice of extension of lien and from the time of such filing, the lien shall be extended for 5 years unless sooner released or otherwise discharged.

Sec. 22. 36 MRSA § 1962, 4th ¶ from the end, is repealed as follows:

~~“And for want of money, goods or chattels of said debtor, to be by him shown unto you, or found in your precinct, to the acceptance of the Attorney General of the State of Maine, to satisfy the sums aforesaid, we command you to take the body of said debtor, and commit him unto any of our jails in said counties, and there detain in your custody, until he shall pay the full sums aforesaid, with your fees, or be discharged by said State of Maine, or otherwise by order of law~~

Sec. 23. 36 MRSA § 1963, as amended by PL 1971, c. 622, § 127, is repealed.

Sec. 24. 36 MRSA § 1965 is enacted to read:

§ 1965. Enforcement of lien

The lien provided for by section 1961 may be enforced at any time after the tax liability with respect to which the lien arose becomes collectible under section 1959 by a civil action brought by the Attorney General in the name of the State of Maine in the Superior Court of the county in which the property is located to subject any property, of whatever nature, of the person liable, or in which he has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the State of Maine therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State of Maine, the State of Maine may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, at the Tax Assessor directs.

Any existing lien upon real property created pursuant to chapters 211 to 225 prior to the effective date of section 1961 may be enforced in the manner provided in this section.

Sec. 25. 36 MRSA § 5102, sub-§ 11, as enacted by P & SL 1969, c. 154, ¶ F, and as last amended by PL 1975, c. 17, § 1, is repealed and the following enacted in place thereof:

11. Meaning of terms. Any “term” used in this Part shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required. Any reference in this Part to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, 1975. This subsection shall be effec-

tive as to items of income, deductions, loss or gain accruing in taxable years ending on or after January 1, 1975 but only to the extent such items have been earned, received, incurred or accrued on or after such effective date.

Sec. 26. 36 MRSA § 5111-A, 1st sentence, as enacted by PL 1971, c. 61, § 4, is amended to read:

In lieu of a tax computed according to the rates set forth in section 5111, the tax of any individual taxpayer whose adjusted gross income for the taxable year is less than \$10,000 at his election shall be computed in accordance with tables prepared and issued by the assessor.

Sec. 27. 36 MRSA § 5124, 1st sentence, as enacted by P & SL 1969, c. 154, ¶ F, § 1, and as repealed and replaced by PL 1975, c. 660, § 7, is amended to read:

The standard deduction of a resident individual, head of household or of a resident husband and wife who file a joint return or of a resident married person who files a separate return shall be as defined under the Internal Revenue Code, section 141, except that the percentage standard deduction shall be based on adjusted gross income as modified by this Part, and except that it shall not be greater than the following:

Sec. 28. 36 MRSA § 5143, 1st sentence, as enacted by P & SL 1969, c. 154, § F, § 1, and as repealed and replaced by PL 1975, c. 660, § 8, is amended to read:

The standard deduction of a nonresident individual, head of household, or a nonresident husband and wife who file a joint return or of a nonresident married person who files a separate return shall be as defined under Internal Revenue Code, section 141, except that the percentage standard deduction shall be based on adjusted gross income from sources within this State, and except that it shall not be greater than the following:

Sec. 29. 36 MRSA § 5312-A, 4th ¶ from the end, as enacted by PL 1971, c. 37, § 3, is repealed as follows:

~~"And for want of money, goods or chattels of said debtor, to be by him shown unto you, or found in your precinct, to the acceptance of the Attorney General of the State of Maine, to satisfy the sums aforesaid, we command you to take the body of said debtor, and commit him unto any of our jails in said counties, and there detain in your custody, until he shall pay the full sums aforesaid, with your fees, or be discharged by said State of Maine, or otherwise by order of law"~~

Sec. 30. 36 MRSA § 5312-B, as enacted by PL 1971, c. 37, § 3, and as amended by PL 1971, c. 622, § 131, is repealed.

Sec. 31. 36 MRSA § 6121 is enacted to read:

§ 6121. Tax Assessor's records confidential

The records and files of the Tax Assessor respecting the administration of chapter 901 shall be confidential and privileged, and neither the Tax Assessor nor any employee engaged in the administration of chapter 901 or charged



with the custody of any such records or files shall divulge or disclose any information obtained from such records or files or from any examination or inspection of the premises or property of any person. Neither the Tax Assessor nor any employee engaged in the administration of chapter 901 or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceedings except in behalf of the Tax Assessor, in an action or proceeding under chapter 901 to which the Tax Assessor is a party, or in behalf of any party to any action or proceeding under chapter 901, when the records or files or the facts shown thereby are directly involved in any such action or proceedings.

Nothing herein contained shall be construed to prevent:

1. Reports. The delivery to a taxpayer or his duly authorized representative of a copy of any report or any other paper filed by him pursuant to chapter 901;
2. Statistics. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;
3. Information to governmental officers. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces and Dominion of Canada. Such information may be given only on the written request of the duly authorized officer when the officer's government permits the exchange of like information with the taxing officials of this State and when the officer agrees that such information shall be used only for tax collection purposes; and
4. Information to legislative committees. The disclosure of information from records or files of the Tax Assessor or the production of records or files of the Tax Assessor to a special interim legislative investigating committee, or its agent, upon written demand from the chairman of the committee or any member of the committee designated by him. Such information, records or files may be used only for the lawful purposes of the committee and in any actions arising out of investigations conducted by it.

**Sec. 32. Intent.** Notwithstanding any other provision of law:

- A. The State Tax Assessor shall adjust the state property tax for the fiscal year ending June 30, 1977 for the Town of Steuben to reflect the 1975 state valuation of the town less the state valuation loss attributable to the property tax exemption of land acquired by nature conservancy;
- B. The general purpose aid for Flanders Bay Community School District shall be recomputed in accordance with the revised state valuation for the Town of Steuben and such general purpose aid amounts shall become payable during the fiscal year 1976-77 from any unexpended balances in the general purpose aid account;
- C. The State Tax Assessor shall adjust the state property tax for the fiscal year ending June 30, 1977 for the Town of Stoneham to reflect the 1975 state valuation of the town less the state valuation loss attributable

to the property tax exemption granted to the Maine Guarantee Authority in 1976; and

D. The general purpose aid for S.A.D. 72 shall be recomputed in accordance with the revised state valuation for the Town of Stoneham and such general purpose aid amounts shall become payable during the fiscal year 1976-77 from any unexpended balances in the general purpose aid account.

### STATEMENT OF FACT

Section 1 repeals Title 36, section 71, 72 and 73, which created and established the duties and responsibilities of the Bureau of Property Taxation and the State Director of Property Taxation, which duties and responsibilities were transferred by P&SL 1975, chapter 78, section 21 to the State Tax Assessor and the Bureau of Taxation. Section 2 eliminates the transitional period and amendatory clause associated with the establishment of the duties and responsibilities of the Bureau of Property Taxation and the State Director of Property Taxation. Section 3 eliminates a statutory reference to an assessment upon polls which is no longer a basis for a state tax. Section 4 repeals 3 separate statutory enactments relating to the duties and procedures of the Municipal Valuation Appeals Board, which became effective at the same time, and has effectively combined the statutory language of the 3 enactments into one statutory provision. Section 5 clarifies legislative intent to remove the requirement for tax maps to be maintained by municipal assessing units and primary assessing areas. Section 6 clarifies legislative intent to remove the requirement for the establishment of a fiscal year for primary assessing areas. Sections 7, 7-A, 8 and 9 identify the State Board of Assessment Review for purposes of distinguishing that board from a municipal board of assessment review. Sections 10 and 11 fix the filing dates under the Tree Growth Tax Law to correspond with other filing dates in the property tax law. Sections 12 and 13 consolidate property tax exemptions for blind persons under one section of the property tax law. Sections 14 and 15 remove prescribed forms of warrants from the property tax law and authorizes the State Tax Assessor to prescribe appropriate warrants. Section 16 permits the Attorney General to bring civil actions for collection of state taxes against owners of real estate in unorganized townships in District Courts as well as Superior Court. Section 17 removes a provision for abatement of taxes that is superfluous. Section 18 restores  $\frac{1}{2}$  annual excise tax fee payments to coincide with current registration fee payments for farm motor trucks. Section 19 eliminates any possibility of substantive conflict resulting from enactment of PL 1975, cc. 359 and 450. Section 20 eliminates any possibility of substantive conflict resulting from enactment of PL 1975, cc 317 and 528. Sections 21 and 24 permit the State to obtain liens for sales and use taxes against both real and personal property and provide for the more efficient procedure found in the State of Maine Income Tax Law for the filing and enforcement of the liens. Sections 22 and 23 eliminate the warrant procedure for arresting and jailing taxpayers for failing to pay sales and use taxes. Section 25 brings the State of Maine Income Tax Law in

conformity with Federal Income Tax Laws for processing 1975 State of Maine income tax returns. Section 26 is desirable because as the level of the standard deduction changes the range of use of tax tables should also change. It is better to remove the limit from the statute and allow the tax assessor to promulgate it through regulation. Sections 27 and 28 are necessary to correct an error which included a reference to "head of household" and omitted reference to a "married person filing a separate return" in these sections. Sections 29 and 30 eliminate the warrant procedure for arresting and jailing taxpayers for failing to pay State of Maine income taxes. Section 31 specifically provides for a confidentiality provision pertaining to records maintained for the Elderly Householders and Tax Refund Program. Section 32 adjusts the State Property Tax for the towns of Steuben and Stoneham in order to compensate for losses caused by property tax exemptions.