

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1331

S. P. 386

In Senate, March 31, 1977

Referred to Committee on Taxation. Sent down for concurrence and 2,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Merrill of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Provide Relief From Extremely Burdensome Property Taxes.

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

Sec. 1. 36 MRSA Part 9, c. 901, as amended, is repealed.

Sec. 2. 36 MRSA Pt. 9-A, c. 903 is enacted to read:

PART 9-A

PROPERTY TAX RELIEF

CHAPTER 903

RELIEF FROM EXTREMELY BURDENSOME PROPERTY TAXES

§ 6171. Short title

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

§ 6172. Purpose

The purpose of this chapter is to provide property tax relief for Maine residents whose property tax bill is such a large share of their annual income that it represents an extreme burden. The tax relief provided to the non-elderly under this chapter, shall be limited each year to an appropriation of \$10,000,000 from the General Fund.

§ 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 arm's 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 that homestead has been rented by the claimant.

If the landlord and tenant have not dealt with each other at arm's 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 reasonable necessary for use of the dwelling as a home and may consist of a part of a multidwelling or multipurpose 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. 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 non-taxable income, including, but not limited to, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, intrafamily gifts of more than \$500, 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. **Low income elderly.** "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 \$5,000 if a single member household, or \$6,000 if a household with 2 or more members.

8. **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, 1977, 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 large unit, such as a farm, or a multipurpose or multidwelling 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.

9. **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, 25% of the gross rent.

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

§ 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 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.

1. Claim filed. 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; or

2. Claim received. If the claim is received by the following October 15th and the reason for its lateness is deemed so extraordinary that, in the judgment of the State Tax Assessor, tax relief is still justified.

§ 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 when income as determined by section 6173, subsection 6, does not exceed \$5,000 if a single member household, or \$6,000 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, in such tax year upon the claimant's homestead is in excess of 18% of such income which exceeds \$3,000, but does not exceed \$6,000.

2. Qualifications for all others. For any taxable year, a claimant shall be qualified for a refund equal to 50% 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 dollar) is:	Then the Taxpayer is Entitled to Credit for Property Tax Paid in Excess of this Percent of that Income
\$ 3,900	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 or 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; and

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

1. **Claimant forms.** 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 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 chapter 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.

2. **Method of payment.** Prior to paying claims according to the procedure set forth in section 6179, the State Tax Assessor shall set aside \$40,000 of the appropriated funds in order to pay valid late claims, as determined by him according to section 6176, subsection 2.

§ 6181. Proof of claim

Every claimant under this chapter shall supply to the State Tax Assessor, in support of his claim, reasonable proof of rents paid, name and addresses of the owners or managing agents of properties 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 more than one year of 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 assesment, and the assesment 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 arm's length, he may determine rent constituting property taxes accrued as at arm's 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 arm's length, may appeal the denial to the Administrative Court Judge by filing a petition within 30 days after the denial.

§ 6186. 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.

§ 6187. Rules and regulations

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

Sec. 3. **Effective date.** Section 1 and 2 shall become effective January 1, 1978, except that Title 36, section 6181 shall become effective 90 days after the Legislature adjourns.

STATEMENT OF FACT

This bill will provide property tax relief for Maine residents whose property tax bill is such a large share of their annual income that it represents an extreme burden. The tax relief provided to the nonelderly under this chapter, is limited each year to an appropriation of \$10,000,000 from the General Fund.