

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND EIGHTH LEGISLATURE

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## Legislative Document

No. 1737

H. P. 1478

House of Representatives, April 25, 1977

On Motion of Mr. Carey of Waterville, referred to Committee on Taxation.  
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wyman of Pittsfield.

Cosponsors: Mr. Brenerman of Portland, Mr. Higgins of Scarborough, Mr.  
Diamond of Windham.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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### AN ACT to Relieve Homeowners and Renters from the Burden of the Uniform Property Tax.

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

Sec. 1. 36 MRSA § 754-A is enacted to read:

#### § 754-A. Tax collectors

Tax collectors shall annually prepare and mail a tax bill to each taxpayer who is named on the list provided by the assessors or municipal officers pursuant to sections 709 and 709-A. The tax bill shall include:

1. Assessed just value. The assessed just value of the taxpayer's property;
2. Tax rate. The local and State Government tax rate;
3. Uniform property tax rate. The uniform property tax rate;
4. Local property tax rate. If applicable, the local property tax rate;
5. Amount of tax due. The amount of tax due from each of the taxes under subsections 2, 3 and 4; and
6. Statement. A statement indicating the ratio or percentage of full 100% value used in determining the assessed valuation.

Sec. 2. 36 MRSA § 5111-B is enacted to read:

**§ 5111-B. Uniform property tax relief surcharge**

For the purpose of shifting the homestead tax burden of education from the state property tax to the state income tax, a surcharge of 75% is added to each person's state income tax payment.

Sec. 3. 36 MRSA c. 903 is enacted to read:

**CHAPTER 903****UNIFORM PROPERTY TAX HOMESTEAD RELIEF ACT OF 1977****SUBCHAPTER I****HOMESTEAD RELIEF****§ 6201. Title**

This chapter shall be known as the "Uniform Property Tax Homestead Relief Act of 1977."

**§ 6202. Purpose**

The purpose of this chapter is to shift the tax burden of education away from the residential property tax and to place it on the state's personal income tax.

**§ 6203. Legislative findings**

The Legislature finds that:

1. Property taxes. The homeowner and renter are too heavily burdened by property taxes;

2. Personal income tax. The personal income tax more accurately taxes according to each person's ability to pay. Not only does the income tax reflect disposable income but it also reflects family size; and

3. Shift in tax burden. An equal shift from residential property taxes to personal income taxes is not an increase in total taxes but simply a shift in burden to a more equitable tax.

**SUBCHAPTER II****HOMEOWNERS EXEMPTION****§ 6211. Definitions**

As used in this subchapter, the following terms shall have the following meanings unless the context indicates otherwise.

1. Assessor. "Assessor" means the municipal assessor or in the case of a primary assessing area the chief assessor, or in the unorganized territory, the State Tax Assessor.

2. Claimant. "Claimant" means a homeowner who has filed a claim under this subchapter for a uniform property tax homestead exemption.

3. Dwelling. "Dwelling" means a structure used as a residence, including a mobile home or house trailer.

4. **Eligible.** "Eligible" means that the claimant is a homeowner entitled to a homestead uniform property tax exemption for the tax assessed based on the status of property on April 1st of the same year.

5. **Homeowner.** "Homeowner" means an individual who has been a resident of this State for at least 6 consecutive months prior to the filing of a claim for the homestead exemption and who continues to be a resident of this State and owns a homestead property on April 1st of the year in which the tax is assessed.

6. **Homestead exemption.** "Homestead exemption" is the uniform property tax homestead exemption, as described in this subchapter.

7. **Homestead property.** "Homestead property" means a dwelling owned and used as the homeowner's principal place of abode and the parcel of land, up to 10 acres, upon which the dwelling is affixed or located, together with all privileges and appurtenances belonging to the premises when such parcel is owned by the homeowner.

8. **Owned.** "Owned" means title in fee, joint tenancy, tenancy in common, life tenancy or a vendee in possession of homestead property under a contract.

#### § 6212. Uniform property tax homestead exemption

An eligible claimant's homestead shall be partially exempt from the uniform property tax defined in section 451, subsection 2. This exemption shall be limited to the tax owed on up to \$35,000 of the homestead's just value.

#### § 6213. Filing

A claimant shall file a claim form annually for the exemption, to be signed by the claimant under pain of perjury, on or before April 1st of the year in which the homestead exemption is to be allowed. Only one claim may be filed with respect to each eligible homestead.

#### § 6214. Administration

1. **State Tax Assessor.** The State Tax Assessor shall prepare and make available to assessors claim forms with instructions for claimants.

2. **Claim forms.** Claim forms shall be made readily available by assessors to all homestead property owners.

3. **Tax collector.** The tax collector is responsible for the computation of each individual homestead exemption and the appropriate adjustments of the property tax due. The amount exempted shall be noted on the tax bill required under section 754-A.

4. **Approval of claims for homestead exemption.** The assessor shall be responsible for the approval of claims for the homestead exemption and will furnish the tax collector with a list of eligible claimants.

**§ 6215. Disallowance of credit**

If it is determined that a claim for a homestead exemption tax is in error, it shall be disallowed and, if the exemption has been allowed prior to such determination, the amount allowed may be recovered by suit after written demand is made.

**§ 6216. Initial exemptions allowable**

The initial assessment on which any municipality may certify homestead property tax exemptions is the assessment made relative to the status of property on April 1, 1978.

**§ 6217. Unorganized territory**

The State Tax Assessor shall administer this homestead exemption for all homesteads in the unorganized territory.

**§ 6218. State reimbursement**

This homestead exemption shall not alter an administrative units' education allocation needs as determined under Title 20, chapter 512-A.

**SUBCHAPTER III**  
**UNIFORM PROPERTY TAX**  
**RENTERS CREDIT**

**§ 6231. Purpose**

The purpose of this subchapter is to provide renters of homesteads in Maine an income tax credit equivalent to the amount of the uniform property tax that is passed on by the landlord in the form of higher rent.

**§ 6232. Definitions**

As used in this subchapter unless the context otherwise indicates, the following words will have the following meanings.

1. **Claimant.** "Claimant" means a person who has filed a claim for an income tax credit under this subchapter and was domiciled in this State and rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this subchapter. 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 income.** "Gross 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 of more than \$500, public assistance and relief, not including relief granted under this subchapter, 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, workmen'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.

3. 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. For the purposes of this subchapter, gross rent may not be greater than \$375 per month. 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 subchapter.

4. Homestead. "Homestead" means a claimant's principal dwelling which he rents and which is situated within the State and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built.

5. 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.

#### § 6233. Claim is personal

The right to file a claim for an income tax credit under this subchapter 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.

#### § 6234. Claim for an income tax credit

Any eligible claimant may receive a partial income tax credit for the burden of the uniform property tax. This credit may be received in the following way:

1. Subtraction from gross income. By subtracting 12% of his gross rent from his gross income in the course of calculating his taxable income under chapter 805; or

2. Difference between taxable income and the tax credit. If the calculation in subsection 1 results in no taxable income, by calculating the difference between his taxable income under chapter 805 and 12% of his gross rent.

#### § 6235. Filing claim

Any eligible claimant shall file for his uniform property tax renters credit according to the regulations applicable to filing a personal income tax return under Part 8. If the claim is late but is received by October 15th, the State Tax Assessor may still grant relief if the reason for lateness is reasonably justified.

#### § 6236. Satisfaction of outstanding tax liabilities

The amount of any claim otherwise payable under this subchapter 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.

#### § 6237. One claim per household

Only one claimant per household per year shall be entitled to a renters credit under this subchapter.

#### § 6238. Limitations

1. 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.

2. 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.

#### § 6239. 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. All claimants shall file a state income tax form.

#### § 6240. Proof of claim

Every claimant under this subchapter shall supply to the State Tax Assessor, in support of his claim, reasonable proof of rents paid, names 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 subchapter 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.

**§ 6241. Audit of claim**

If on the audit of any claim filed under this subchapter 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.

**§ 6242. 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 credit 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.

**§ 6243. 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 subchapter such determination shall be final.

**§ 6244. Appeals**

Any person aggrieved by the denial in whole or in part of relief claimed under this subchapter, except when the denial is based upon late filing of claim for relief or is based upon a redetermination of gross rent paid at arm's length, may appeal the denial to the Administrative Court Judge by filing a petition within 30 days after the denial.

**§ 6245. Disallowance of certain claims**

A claim shall be disallowed if the Bureau of Taxation finds that the claimant rented his homestead primarily for the purpose of receiving benefits under this subchapter.

**§ 6246. Rules and regulations**

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

**Sec. 4. Effective date.** This Act shall take effect January 1, 1978.



## STATEMENT OF FACT

The purpose of this bill is to remove the burden of the uniform property tax from the housing of residents. It accomplishes this through a resident's homestead exemption and a resident's renter income tax credit. Specifically, the bill accomplishes the following:

Section 1. Requires that each person's property tax bill reflects his property just value; the percent of his tax allocated to local or state property taxes and the local assessment ratio.

Section 2. Establishes an income surtax of 75% to fund the cost of the homestead exemption and renters credit. This surtax would be a flat percentage and would apply to every person's income tax bill. A surtax does not change the progressivity of the current income tax schedule. This is not meant to be a tax increase but rather is a shift from property taxes on homesteads, owned or rented, to the personal income tax. The income tax, because it reflects not only disposable income but also family size, is our most accurate indicator of ability to pay.

Section 3. Establishes the uniform property tax homestead relief chapter. It is divided into 3 subchapters:

Subchapter II. The uniform property tax homeowner's exemption, which gives each Maine resident an exemption for the uniform property tax owed on his homestead, 10 acres, plus buildings, up to a valuation limit of \$35,000.

Subchapter III. The uniform property tax credit, which gives each resident who rents his homestead a credit on his income tax bill, 12% of his gross rent.