

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 2053**

H. P. 1968

House of Representatives, January 11, 1978

The Committee on Taxation suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24 and 2,500 ordered printed.

EDWIN H. PERT, Clerk

Presented by Ms. Benoit of South Portland.

Cosponsors: Mr. Teague of Fairfield, Mr. Greenlaw of Stonington, and Mr. Carey of Waterville.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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**AN ACT to Provide Property Tax Relief**

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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Sec. 1. 36 MRSA Part 9, c. 901, as amended, is repealed.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 nonelderly 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, pursuant to an arm's length agreement, 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 this State, 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 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 those persons are 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 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 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 either:

A. 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; or

B. A claimant who has attained at least the age of 55 during the year for which relief is requested and who is a widow or widower who has not remarried and who, due to a disability, is receiving federal disability payments, such as supplemental security income.

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 the same 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 that 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 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, for 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 judgement 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 during the year for which relief is requested is either:

A. At least 62 years of age; or

B. At least 55 years of age and a widow or widower who has not remarried and who, due to a disability, is receiving federal disability payments, such as supplemental security income; 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 that tax year upon the claimant's homestead is in excess of 10% of the 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 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
\$ 3,999	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 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; 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 a form which 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, names and addresses of the owners or managing agents of properties rented, property taxes accrued, changes of homestead and a statement of property taxes accrued and used for purposes of this chapter which have been or will be paid by him and a statement 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 for 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 a case, and any person who assisted in the preparation of filing of the excessive claim or supplied information upon which the excessive claim was prepared, with fraudulent intent, is guilty of a Class E crime. 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 arm's length, and, for the purposes of this chapter, that 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. State Tax Assessor's records confidential**

The records and files of the State Tax Assessor respecting the administration of this chapter shall be confidential and privileged, and neither the State Tax Assessor nor any employee engaged in the administration of this chapter or charged with the custody of any records or files shall divulge or disclose any information obtained from the records or files or from any examination or inspection of the premises or property of any person. Neither the State Tax Assessor nor any employee engaged in the administration of this chapter or charged with the custody of any 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 State Tax Assessor, in an action or proceeding under this chapter to which the State Tax Assessor is a party, or in behalf of any party to any action or proceeding under this chapter, when the records or files or the facts shown thereby are directly involved in any 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 this chapter;
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. The

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 the information shall be used only for tax collection purposes;

4. Information to legislative committees. The disclosure of information from records or files of the State Tax Assessor or the production of records or files of the State 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. The 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; and

5. Information to the Department of Human Services. The disclosure of information from records or files of the State Tax Assessor to duly authorized representatives of the Commissioner of Human Services. The information shall be used by the Department of Human Services solely for the purpose of identifying and locating those individuals who may be eligible for the free drugs to the elderly and disadvantaged program as administered by the department pursuant to Title 22, section 254.

§ 6188. Rules and regulations

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

Sec. 3. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1979-80
FINANCE AND ADMINISTRATION,	
DEPARTMENT OF	
Bureau of Taxation	
Personal Services	(3) \$ 50,000
All Other	9,950,000
	\$10,000,000

Sec. 4. Effective date. Sections 1 and 2 of this Act shall become effective January 1, 1979, except that Title 36, section 6181 shall become effective 90 days after the Legislature adjourns.

## STATEMENT OF FACT

This bill provides property tax relief for Maine citizens whose property tax bill is such a large share of their annual income that it represents an extreme burden.

This bill also expands the property tax relief benefits currently available to Maine's elderly. It does this by increasing the allowable income limits from \$5,000 to \$6,000, if the elderly household has more than one member.

**1. How the property tax circuit breaker works.** 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.

**2. Why a general property tax circuit breaker is needed.** This bill was recommended by both the 1975 Governor's Tax Policy Committee and the 1976 Joint Select Committee on State Tax Policy. 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 pay. 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 expands 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 advisory commission 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 the 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.”