

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 596**

H. P. 479

House of Representatives, February 15, 1979

Referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Torrey of Poland.

Cosponsors: Mr. Cunningham of New Gloucester, Mr. Davies of Orono and Mr. Micheal of Auburn.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Establish the Maine Homeowners and Tenants Tax Relief Program.**

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

Sec. 1. 36 MRSA c. 905 is enacted to read:

**CHAPTER 905**

**THE MAINE HOMEOWNERS AND TENANTS TAX RELIEF PROGRAM**

**§ 6201. Short title**

This chapter may be cited as "The Maine Homeowners and Tenants Tax Relief Program."

**§ 6202. Purpose**

The purpose of this chapter is to provide property tax relief for Maine residents with extremely low income or whose property tax bill is such a large share of their annual income that it represents an extreme burden.

**§ 6203. 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 owned or rented a homestead in this State during the entire calendar year preceding the year in which he files a claim for relief under this chapter.

2. **Gross rent.** "Gross rent" means rental paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in 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 dwelling owned or rented by a claimant and his dependents as their principal place of residence, 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 or one or more joint tenants or tenants in common. A mobile home may be a homestead.

4. **Household.** "Household" means a claimant and spouse and members of the household for whom the claimant under this chapter is entitled to claim an exemption as a dependent under Part 8 for the year for which relief is requested.

5. **Household income.** "Household income" means all income received by all persons of a household in a calendar year while members of the household.

6. **Income.** "Income" means the sum of:

- A. Maine adjusted gross income determined in accordance with Part 8;
- B. The amount of capital gains excluded from adjusted gross income;
- C. Regular contributions or gifts and support payments;
- D. Public assistance and relief payments;
- E. Interest or dividends on obligations or securities of:

(1) Any state or of a political subdivision or authority thereof; or

(2) Any authority, commission, instrumentality, territory or possession of the United States;

F. The gross amount of any pension or annuity, including retirement benefits under the Railroad Retirement Act or Social Security Act or other government retirement program;

**G. Benefits received in lieu of wages, such as disability benefits and the gross amount of "loss of time" insurance, unemployment benefits and nontaxable strike benefits;**

**H. Workers' compensation and other sickness or injury benefits;**

**I. Contributions to individual retirement or other deferred compensation or retirement plans;**

**J. Any amount claimed as depreciated for federal income tax or other purposes; and**

**K. The aggregate of gifts in excess of \$300.**

**"Income" shall not include surplus food or other relief in kind supplied by a governmental agency or relief granted under this chapter.**

**7. Property taxes accrued. "Property taxes accrued" means property taxes exclusive of special assessment, delinquent interest and charges for service levied on a claimant's homestead in this State as of April 1st of the year for which a claim is filed. 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 the 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 owns his homestead part of the preceding tax year and rents 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, multiplied by the percentage of 12 months that such 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. If a homestead is a 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" means 25% of the gross rent actually paid in cash or its equivalent in any year by a claimant and his household solely for the right of occupancy of their Maine homestead in the year, and which rent constitutes the basis, in the succeeding calendar year, of a claim for relief under this chapter by the claimant.**

**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.**

**§ 6204. 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.

§ 6205. Claim to be paid from General Fund

The amount of the claim after certification by the State Tax Assessor shall be paid to the claimant from the General Fund. No interest shall be allowed on payment made to a claimant pursuant to this chapter.

§ 6206. 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 shall be paid unless:

- 1. Filing of claim. The claim is filed with the Bureau of Taxation on or before April 1st of the year following that for which the claim is made; or
- 2. Lateness of claim. If the claim is received by the following December 31st and the reason for its lateness is deemed so extraordinary that in the judgment of the State Tax Assessor tax relief is still justified.

§ 6207. 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 against his or her spouse who was a member of the claimant's household in the year to which the claim relates.

§ 6208. One claim per household

Only one claimant per household or homestead per year shall be entitled to relief under this chapter. If more than one individual is able to qualify as a claimant the individuals may determine among themselves who the claimant shall be. If they are unable to agree, the State Tax Assessor's determination shall be final.

§ 6209. Computation of refund

1. Amount of claim. The amount of any claim pursuant to this chapter shall be determined as follows:

<p>If Household Income (rounded to the nearest dollar) is:</p> <p>less than \$5,001</p> <p>\$ 5,001 to \$ 6,000</p> <p>6,001 to 7,000</p>	<p>Then the household is entitled to a refund of a percentage of taxes or rent constituting property taxes as follows:</p> <p>70%</p> <p>60%</p> <p>50%</p>
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7,001 to 8,000	40%
8,001 to 9,000	30%
9,001 to 10,000	20%
10,001 to 11,000	10%
11,001 or more	1%

2. **Limitation.** No refund or grant under this chapter shall be less than \$10 or more than \$200.

3. **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.

4. **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 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 claims.

#### § 6210. 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.

2. **Method of payment.** Prior to paying claims according to the procedure set forth in section 6209, 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 6206, subsection 2.

#### § 6211. Proof of claim

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, or a copy of the tax bill upon which "property taxes accrued" is based.

#### § 6212. 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.

#### § 6213. 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 cancelled 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 that case, and any person who assisted in the preparation of filing of that excessive claim or supplied

information upon which that 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 cancelled 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.

#### § 6214. 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, that determination shall be final.

#### § 6215. 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 seek judicial review of the denial in accordance with the Maine Administrative Procedure Act.

#### § 6216. 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.

#### § 6217. 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; and

4. **Information to the Department of Human Services.** The disclosure of information from records or files of the State Tax Assessor to duly authorize representatives of the Commissioner of Human Services. The information shall be provided upon written request by the commissioner or his duly authorized representatives. 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 of Human Services pursuant to Title 22, section 254.

§ 6218. **Rules and regulations**

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

§ 6219. **Election of refund under this Part or Part 9**

A claimant entitled to a refund under this Part and under Part 9 may elect a refund either under this Part or Part 9 and may not receive refunds under both Parts.

**Sec. 2. Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act.

	<b>1979-80</b>
<b>FINANCE AND ADMINISTRATION,</b>	
<b>DEPARTMENT OF</b>	
Bureau of Taxation	
Personal Services	(4) \$41,400
All Other	19,955,600
Capital Expenditures	3,000
	Total: \$20,000,000

**Sec. 3. Effective Date.** The first year for which a claim may be made shall be calendar year 1979.



## STATEMENT OF FACT

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

This bill, by not repealing the elderly tax and rent refund law and by eliminating all references to the elderly, permits the elderly program to continue regardless of passage of this more general legislation. It also provides for an election to receive under the elderly or general programs and not under both. Further, this bill redefines "income" to insure that only the truly needy are eligible to receive assistance.

The 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 relief becomes 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. As "Property Tax Circuit Breakers: Current Status and Policy Issues" 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 overburden situations, but states have both."

As "Property Tax Circuit Breakers: Current Status and Policy Issues" 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 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 income 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."