

MAINE STATE LEGISLATURE

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New Draft of: H. P. 1307, L. D. 1512
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1687

H. P. 1625

House of Representatives, June 2, 1981

Reported by the Majority from the Committee on Taxation. Printed under
Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Concerning Homestead Tax Relief.

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

36 MRSA c. 909 is enacted to read:

CHAPTER 909

OPTIONAL ELDERLY HOMESTEAD TAX RELIEF

§ 6191. Short title

This chapter may be cited as the "Optional Elderly Homestead Tax Relief Act."

§ 6192. Definitions

As used in this chapter, unless the context otherwise indicate, the following terms have the following meanings.

1. Eligible claimant. "Eligible claimant" means a person who:
 - A. Is 70 years of age or older, or who is 68 years of age or older and the surviving spouse of a person who was 70 years of age or older at the time of death and qualified for relief under this chapter;
 - B. Has filed a timely and properly executed claim under this chapter; and
 - C. Owns and resides in a homestead, in the municipality in which the claim is

filed. Ownership of a homestead under this chapter may be by fee, life tenancy, bond for deed, as mortgagee or any other possessory type interest in which the owner is personally responsible for the tax.

2. Homestead. "Homestead" means all or part of a building, including a mobile home, used by the occupant as his principal abode, but does not include housing which is not subject to property taxation.

§ 6193. Application

A claimant seeking relief under this chapter shall complete an application, on a suitable form prepared and supplied by the State Tax Assessor, on or before April 1st of the tax year for which the claim is made.

The local tax assessor or, in the case of the unorganized territory, the State Tax Assessor shall determine whether the applicant is an eligible claimant under this chapter. If he makes that determination, he shall notify the claimant of that determination prior to June 1st of that year. He shall cause a notice, on a form prepared and supplied by the State Tax Assessor, to be filed in the registry of deeds. No fee may be charged for the filing. The notice shall indicate that liens may be created for outstanding balances, under section 6194, and that the notice creates a tax lien mortgage for any outstanding balance that may be created.

§ 6194. Effect

In any tax year after the claimant has been determined eligible under section 6193, the local tax collector or, in the case of the unorganized territory, the State Tax Assessor may not increase the amount of tax collected against the eligible claimant's homestead above the amount levied in the year the determination was made, while the claimant remains eligible. The local tax assessor or, in the case of the unorganized territory, the State Tax Assessor shall determine whether, due to adjustments in the tax structure, an additional amount of tax would be due from the eligible claimant had he not made application under this chapter. If any amount would be due, a lien arises under section 552 or 1281 on that amount to the same extent as if the amount was actually due. Interest accrues on any outstanding amount at the same rate applied to outstanding real estate taxes, compounded annually for the period that the property is subject to this chapter. The tax collector need not comply with chapter 105, subchapter IX, concerning filing of tax lien certificates. The State Tax Assessor need not comply with chapter 107, subchapter IV, concerning filing of tax lien certificates. No foreclosure action may be taken by the municipality or the State Tax Assessor because of unpaid taxes and interest which have been deferred because the property is subject to this chapter.

The municipality or, in the case of the unorganized territory, the State Tax Assessor shall notify the taxpayer annually of the total amount of taxes and interest deferred since the property became subject to this chapter.

§ 6195. Termination of relief

1. Acts that terminate. The relief afforded by this chapter terminates upon:

A. The transfer or conveyance of the property to any person, except the claimant's spouse, upon the claimant's death; or

B. The claimant failing to use the property as his homestead.

2. Effect. When relief terminates under subsection 1, all outstanding taxes and interest as computed under section 6194, subsection 2, become due and payable. The municipality may bring an action to recover the outstanding balance, according to chapter 105. In the unorganized territory, the State Tax Assessor may bring an action to recover the outstanding balance according to chapter 107, subchapter IV. In either case, there is only a 6-month right to redeem from the date relief is terminated under subsection 1.

§ 6196. Limitation of relief

The total amount of tax and interest deferred under this chapter may not exceed the amount of the taxpayer's equity in the property. In any year in which an additional deferral of tax and interest would exceed the taxpayer's equity, the amount deferred shall be that amount by which the equity exceeds to total of prior deferred taxes and interest. The amount of any additional tax may be charged to the taxpayer and collected in the same manner as property taxes to which this chapter does not apply.

§ 6197. Municipal option

1. Vote required. The provisions of this chapter are in effect in a municipality only if the legal voters of the municipality elect to accept those provisions according to this section. For purposes of this section, the unorganized territory shall be treated as one municipality and the State Tax Assessor shall exercise the duties of municipal officers.

2. Petition. A number of legal voters of a municipality constituting at least 10% of the number of votes cast in the municipality at the last gubernatorial election may petition the municipal officers to call an election, under subsection 3, for the purpose of accepting this chapter.

3. Election. Upon petition, the municipal officers shall, at the next regular election or town meeting, or at a special election or town meeting called and held by them, submit the following question to the legal voters in accordance with their charter or Title 30, section 2061: "Shall homestead tax relief be available to persons, residing in (name of municipality), 65 years or older, under the Revised Statutes, Title 36, chapter 909?"

4. Favorable vote. If a majority of the legal votes cast on the question favor acceptance, the provisions of this chapter apply in that municipality upon declaration of the vote by the municipal officers, provided that the total number of votes cast for and against acceptance equals or exceed 40% of the total votes cast

in that municipality for all candidates for Governor at the next previous gubernatorial election.

5. **Withdrawal; effect.** A previous acceptance of the provisions of this chapter may be withdrawn by the legal voters of the municipality in the same manner that acceptance was gained, except that the question to the voters shall be: "Shall the prior acceptance of the provisions of the Revised Statutes, Title 36, chapter 909, affording homestead tax relief in (name of municipality) be withdrawn?"

If a majority of legal votes cast favor withdrawal, the provisions of this chapter apply in the municipality only to those eligible claimants who had applied for and gained relief under this chapter prior to withdrawal.

The withdrawal of a municipality from participation in this program shall not constitute a termination of relief under section 6195. Taxpayers who have received a deferral of taxes and interest shall continue to have that amount deferred until relief is terminated in one of the ways described in section 6195. Any taxes assessed after the date of the municipality's withdrawal from the program shall be collected in the same manner as property taxes to which this chapter does not apply.

§ 6198. Termination of provisions

No deferral of taxes or interest may be granted under this chapter for property tax years beginning on or after April 1, 1984. However, the provisions of this chapter shall continue to apply to taxes and interest deferred prior to that date.

STATEMENT OF FACT

This new draft clarifies that the local tax collector rather than the assessor is responsible for administration of this program and provides a mechanism for administration in the unorganized territory. It limits the amount of relief to the taxpayer's equity in the property and clarifies the effect of a municipality's withdrawal from the program. It also provides a 2-year trial period to determine municipal interest in the program.