

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 985

S.P. 368

In Senate, March 29, 1989

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TWITCHELL of Oxford:

Cosponsored by Senator TITCOMB of Cumberland, Representative WALKER of Norway and Representative JACKSON of Harrison.

STATE OF MAINE

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

An Act Concerning Property Tax Relief for the Elderly.



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

3 36 MRSA c. 908 is enacted to read:

5 CHAPTER 908

7 DEFERRED COLLECTION OF HOMESTEAD PROPERTY TAXES

9 §6250. Definitions

11 As used in this chapter, unless the context otherwise
13 indicates, the following terms have the following meanings.

15 1. Benefited property. "Benefited property" means a lot or
17 parcel of land which is benefited by sewer, water or natural gas
19 and on which an assessment has been determined against the owner.

21 2. Bureau. "Bureau" means the Bureau of Taxation.

23 3. Homestead. "Homestead" means the owner-occupied
25 principal dwelling, either real or personal property, owned by
27 the taxpayer and the tax lot upon which it is located. If the
29 homestead is located in a multi-unit building, the homestead is
the portion of the building actually used as the principal
dwelling and its percentage of the value of the common elements
and of the value of the tax lot upon which it is built. The
percentage is the value of the unit consisting of the homestead
compared to the total value of the building exclusive of the
common elements, if any.

31 4. Tax-deferred property. "Tax-deferred property" means
33 the property upon which taxes are deferred under this chapter.

35 5. Taxes. "Taxes" or "property taxes" means ad valorem
37 taxes, assessments, fees and charges entered on the assessment
and tax roll.

39 6. Taxpayer. "Taxpayer" means an individual who has filed
41 a claim for deferral under this chapter or individuals who have
jointly filed a claim for deferral under this chapter.

43 §6251. Deferral of tax on homestead; joint election; age
requirement; filing claim

45 1. Filing claim. Subject to section 6252, an individual,
47 or 2 or more individuals jointly, may elect to defer the property
49 taxes on their homestead by filing a claim for deferral with the
municipal assessor after January 1st and on or before April 1st
of the first year in which deferral is claimed if:

51 A. The individual, or in the case of 2 or more individuals
filing a claim jointly, each individual is 62 years of age

1 or older on April 1st of the year in which the claim is
2 filed; and

3
4 B. The individual has, or in the case of 2 or more
5 individuals filing a claim jointly, all of the individuals
6 together have, household income, as defined in section 6201,
7 subsection 7, of less than \$15,000 for the calendar year
8 immediately preceding the calendar year in which the claim
9 is filed.

11 The municipal assessor shall forward each claim filed under this
12 subsection to the bureau, which shall determine if the property
13 is eligible for deferral.

15 2. Property tax deferral. When the taxpayer elects to
16 defer property taxes for any year by filing a claim for deferral
17 under subsection 1, it shall have the effect of:

19 A. Deferring the payment of the property taxes levied on
20 the homestead for the municipal fiscal year beginning on or
21 after April 1st of that year;

23 B. Continuing deferral of the payment by the taxpayer of
24 any property taxes deferred under this chapter for previous
25 years that have not become delinquent under section 6260; and

27 C. Continuing the deferral of the payment by the taxpayer
28 of any future property taxes for as long as the provisions
29 of section 6252 are met.

31 3. Guardian compliance. If a guardian or conservator has
32 been appointed for an individual otherwise qualified to obtain
33 deferral of taxes under this chapter, the guardian or conservator
34 may act for that individual in complying with this chapter.

35
36 4. Trustee compliance. If a trustee of an inter vivos
37 trust which was created by and is revocable by an individual, who
38 is both the trustor and a beneficiary of the trust and who is
39 otherwise qualified to obtain a deferral of taxes under this
40 chapter, owns the fee simple estate under a recorded instrument
41 of sale, the trustee may act for the individual in complying with
42 this chapter.

43
44 5. Spouse not required to claim. Nothing in this section
45 may be construed to require a spouse of an individual to file a
46 claim jointly with the individual even though the spouse may be
47 eligible to claim the deferral jointly with the individual.

49 6. Appeal. Any person aggrieved by the denial of a claim
50 for deferral of homestead property taxes or disqualification from
51 deferral of homestead property taxes may appeal in the manner
52 provided in chapter 101, subchapter II-A.

1
3 §6252. Property entitled to deferral

5 In order to qualify for tax deferral under this chapter, the
7 property must meet all of the following requirements when the
9 claim is filed and thereafter as long as the payment of taxes by
11 the taxpayer is deferred.

13 1. Claimant's homestead. The property must be the
15 homestead of the individual or individuals who file the claim for
17 deferral, except for an individual required to be absent from the
19 homestead by reason of health.

21 2. Fee simple estate. The person claiming the deferral
23 must, solely or together with the person's spouse, own the fee
25 simple estate or be purchasing the fee simple estate under a
27 recorded instrument of sale, or 2 or more persons must together
29 own or be purchasing the fee simple estate with rights of
31 survivorship under a recorded instrument of sale if all owners
33 live in the homestead and if all owners apply for the deferral
35 jointly.

37 3. No prohibitions. There must be no prohibition to the
39 deferral of property taxes contained in any provision of federal
41 law, rule or regulation applicable to a mortgage, trust deed,
43 land sale contract or conditional sale contract for which the
45 homestead is security.

47 §6253. Claim forms; contents

49 1. Administration. A taxpayer's claim for deferral under
51 this chapter shall be in writing on a form supplied by the bureau
53 and shall:

55 A. Describe the homestead;

57 B. Recite facts establishing the eligibility for the
59 deferral under the provisions of this chapter, including
61 facts that establish that the household income as defined in
63 section 6201, subsection 7, of the individual, or in the
65 case of 2 or more individuals claiming the deferral jointly,
67 was less than \$15,000 for the calendar year immediately
69 preceding the calendar year in which the claim is filed; and

71 C. Have attached any documentary proof required by the
73 bureau to show that the requirements of section 6252 have
75 been met.

77 2. Statement verification. There shall be annexed to the
79 claim a statement verified by a written declaration of the
81 applicant making the claim to the effect that the statements
83 contained in the claim are true.

1 §6254. State liens against tax-deferred property

3 1. Lien. The bureau shall have a lien against the
5 tax-deferred property for the payment of the deferred taxes plus
7 interest thereon and any fees paid to the county clerk by the
9 bureau in connection with the recording, release or satisfaction
11 of the lien. The liens for deferred taxes shall attach to the
13 property on April 1st of the year in which the taxes were
15 assessed. The deferred property tax liens shall have the same
17 priority as other real property tax liens except that the lien of
19 mortgages or trust deeds that are recorded prior to the
21 attachment of the lien for deferred taxes shall be prior to the
23 liens for deferred taxes.

25 2. Foreclosure. The lien may be foreclosed by the bureau
27 as if it were a purchase money mortgage. Reasonable attorney's
29 fees at trial and on appeal and costs may be granted the bureau
31 in a suit for foreclosure of its lien.

33 3. Foreclosure receipts. Receipts from foreclosure
35 proceedings shall be credited in the same manner as other
37 repayments of deferred property taxes under section 6266.

39 §6255. Listing of tax-deferred property; interest accrual

41 1. Tax-deferred property list. If eligibility for deferral
43 of homestead property is established as provided in this chapter,
45 the bureau shall notify the municipal assessor and the municipal
47 assessor shall show on the current ad valorem assessment and tax
49 roll which property is tax-deferred property by an entry clearly
51 designating that property as tax-deferred property.

 2. Tax statement. When requested by the bureau, the
municipal tax collector shall send to the bureau as soon as the
taxes are extended upon the roll the tax statement for each
tax-deferred property.

 3. Interest. Interest shall accrue on the actual amount of
taxes advanced to the municipality for the tax-deferred property
at the rate of 6% per annum.

§6256. Recording liens in county; recording constitutes notice
 of state lien

 1. Recording of liens. For each municipality in which
there is tax-deferred property, the bureau shall cause to be
recorded in the mortgage records of the county, a list of
tax-deferred properties of that municipality. The list shall
contain a description of the property as listed on the assessment
roll together with the name of the owner listed thereon.

1 2. Notice of recording. The recording of the tax-deferred
2 properties under subsection 1 is notice that the bureau claims a
3 lien against those properties in the amount of the deferred taxes
4 plus interest together with any fees paid to the county clerk in
5 connection with the recording, release or satisfaction of the
6 lien, even though the amount of taxes, interest or fees is not
7 listed.

9 §6257. Municipal tax collector to receive amount equivalent to
10 deferred taxes from State

11 1. Amount of deferred taxes. Upon determining the amount
12 of deferred taxes on tax-deferred property for the tax year, the
13 bureau shall pay to the respective municipal tax collectors an
14 amount equivalent to the deferred taxes. Payment shall be made
15 from the revolving account established under section 6266.

16 2. Accounts maintained. The bureau shall maintain accounts
17 for each deferred property and shall accrue interest only on the
18 actual amount of taxes advanced to the municipality.

19 §6258. Notice to taxpayer regarding duty to claim deferral
20 annually

21 1. Annual deferral notice. On or before December 15th of
22 each year, the bureau shall send a notice to each taxpayer who
23 has claimed deferral of property taxes for the current tax year.
24 The notice shall:

25 A. Inform the taxpayer that the property taxes have been
26 deferred in the current year;

27 B. Show the total amount of deferred taxes remaining unpaid
28 since initial application for deferral and the interest
29 accruing therein to November 15th of the current year;

30 C. Inform the taxpayer that voluntary payment of the
31 deferred taxes may be made at any time to the bureau; and

32 D. Contain any other information that the bureau considers
33 necessary to facilitate administration of the homestead
34 deferral program including, but not limited to, the right of
35 the taxpayer to submit any amount of money to reduce the
36 total amount of the deferred taxes and interest.

37 2. Notice mailed. The bureau shall give the notice
38 required under subsection 1 by a postcard or other form of mail
39 sent to the residence address of the taxpayer as shown in the
40 claim for deferral or as otherwise determined by the bureau to be
41 the correct address of the taxpayer.

1 §6259. Events requiring payment of deferred tax and interest

3 Subject to section 6261, all deferred property taxes,
5 including accrued interest, become payable as provided in section
7 6260 when:

9 1. Death of claimant. The taxpayer who claimed deferment
11 of collection of property taxes on the homestead dies or, if
13 there was more than one claimant, the survivor of the taxpayers
15 who originally claimed deferment of collection of property taxes
17 under section 6251 dies;

19 2. Sale of property. The property with respect to which
21 deferment of collection of taxes is claimed is sold, a contract
23 to sell is entered into, or some person other than the taxpayer
25 who claimed the deferment becomes the owner of the property;

27 3. Claimant moves. The tax-deferred property is no longer
29 the homestead of the taxpayer who claimed the deferral, except in
31 the case of a taxpayer required to be absent from that
33 tax-deferred property by reason of health; or

35 4. Removal of home. The tax-deferred property, a mobile or
37 floating home, is moved out of the State.

39 §6260. Time for payments; delinquencies

41 Whenever any of the circumstances listed in section 6259
43 occurs:

45 1. Continuation of assessment year. The deferral of taxes
47 for the assessment year in which the circumstance occurs shall
49 continue for that assessment year;

51 2. Deferred property taxes due. The amounts of deferred
53 property taxes, including accrued interest, for all years shall
55 be due and payable to the bureau April 15th of the year following
57 the calendar year in which the circumstance occurs, except as
59 provided in subsection 3 and section 6261;

61 3. Out-of-state move. Notwithstanding the provisions of
63 subsection 2 and section 6263, when the circumstance listed in
65 section 6259, subsection 4, occurs, the amount of deferred taxes
67 shall be due and payable 5 days before the date of removal of the
69 property from the State; and

71 4. Delinquency. If the amounts falling due as provided in
73 this section are not paid on the indicated due date or as
75 extended under section 6263, those amounts shall be deemed
77 delinquent as of that date and the property shall be subject to
79 foreclosure as provided in section 6254.

1
3 **§6261. Election by spouse to continue tax deferral**

5 **1. Continuation by spouse.** When one of the circumstances
7 listed in section 6259, subsections 1 to 3 occurs, the spouse who
9 did not or was not eligible to file a claim jointly with the
taxpayer may continue the property in its deferred tax status by
filing a claim within the time and in the manner provided under
section 6251 if:

11 **A.** The spouse of the taxpayer is or will be 60 years of age
13 or older not later than 6 months from the day the
circumstance listed in section 6259, subsections 1 to 3
occurs; and

15 **B.** The property is the homestead of the spouse of the
17 taxpayer and meets the requirements of section 6252,
subsection 2.

19 **2. Continuation of deferral by spouse.** A spouse who does
21 not meet the age requirements of subsection 1, paragraph A, but
23 is otherwise qualified to continue the property in its
tax-deferred status under subsection 1 may continue the deferral
25 of property taxes deferred for previous years by filing a claim
within the time and in the manner provided under section 6251.
27 If a spouse eligible for and continuing the deferral of taxes
previously deferred under this subsection becomes 62 years of age
29 prior to April 1st of any year, the spouse may elect to continue
the deferral of previous years' taxes deferred under this
31 subsection and may elect to defer the current assessment year's
taxes on the homestead by filing a claim within the time and in
33 the manner provided under section 6251. Thereafter, payment of
the taxes levied on the homestead and deferred under this
35 subsection and payment of taxes levied on the homestead in the
current assessment year and in future years may be deferred in
the manner provided in and subject to this chapter.

37 **3. Filing extension.** Notwithstanding that section 6251
39 requires that a claim be filed no later than April 1st, if the
bureau determines that good and sufficient cause exists for the
41 failure of a spouse to file a claim under this section on or
before April 1st, the claim may be filed within 90 days after
43 notice of taxes due and payable under section 6260 is mailed or
delivered by the department to the taxpayer or spouse.

45 **§6262. Voluntary payment of deferred tax and interest**

47 **1. Payments.** All payments of deferred taxes shall be made
49 to the bureau.

1
2. Taxes and interest. Subject to subsection 3, all or
3 part of the deferred taxes and accrued interest may at any time
4 be paid to the bureau by:

5
6 A. The taxpayer or the spouse of the taxpayer; or

7
8 B. The next of kin of the taxpayer, heir at law of the
9 taxpayer, child of the taxpayer or any person having or
10 claiming a legal or equitable interest in the property.

11
12 3. Notice of payment. A person listed in subsection 2,
13 paragraph B, may make the payments only if no objection is made
14 by the taxpayer within 30 days after the bureau deposits in the
15 mail notice to the taxpayer of the fact that the payment has been
16 tendered.

17
18 4. Payment application. Any payment made under this
19 section shall be applied first against accrued interest and any
20 remainder against the deferred taxes. This payment does not
21 affect the deferred-tax status of the property. Unless otherwise
22 provided by law, this payment does not give the person paying the
23 taxes any interest in the property or any claim against the
24 estate, in the absence of a valid agreement to the contrary.

25
26 5. Lien discharge. When the deferred taxes and accrued
27 interest are paid in full and the property is no longer subject
28 to deferral, the bureau shall prepare and record in the county in
29 which the property is located a satisfaction of deferred property
30 tax lien.

31 §6263. Extension of time for payment upon death of claimant or
32 spouse

33
34 1. Payment extension. If the taxpayer who claimed
35 homestead property tax deferral dies, or if a spouse who
36 continued the deferral under section 6261 dies, the bureau may
37 extend the time for payment of the deferred taxes and interest
38 accruing with respect to the taxes becoming due and payable under
39 section 6260, subsection 2, if:

40
41 A. The homestead property becomes property of an individual
42 or individuals:

43
44 (1) By inheritance or devise; or

45
46 (2) If the individual or individuals are heirs or
47 devisees in the course of settlement of the estate;

1
3 B. An individual or individuals commence occupancy of the
5 property as a principal residence on or before August 15th
7 of the calendar year following the calendar year of death; or

9 C. An individual or individuals make application to the
11 bureau for an extension of time for payment of the deferred
13 taxes and interest prior to August 15th of the calendar year
15 following the calendar year of death.

17 2. Extension terms. Subject to paragraph B, an extension
19 granted under this section shall be for a period not to exceed 5
21 years after August 15th of the calendar year following the
23 calendar year of death. The terms and conditions under which the
25 extension is granted shall be in accordance with a written
27 agreement entered into by the bureau and the individual or
29 individuals.

31 An extension granted under this section shall terminate
33 immediately if:

35 A. The homestead property is sold or otherwise transferred
37 by any party to the extension agreement;

39 B. All of the heirs or devisees who are parties to the
41 extension agreement cease to occupy the property as a
43 principal residence; or

45 C. The homestead property, a mobile or floating home, is
47 moved out of the State.

49 3. Bond. If the bureau has reason to believe that the
51 homestead property is not sufficient security for the deferred
53 taxes and interest, the bureau may require the individual or
55 individuals to furnish a bond conditioned upon payment of the
57 amount extended in accordance with the terms of the extension.
59 The amount of the bond shall not exceed double the taxes with
61 respect to which tax extension is granted.

63 4. Accrued interest. During the period of extension, and
65 until paid, the deferred taxes shall continue to accrue interest
67 in the same manner and at the same rate as provided under section
69 6255, subsection 3. No interest may accrue upon interest.

71 **§6264. Limitations**

73 Nothing in this chapter is intended to or may be construed
75 to:

77 1. Foreclosure. Prevent the collection, by foreclosure, of
79 property taxes which become a lien against tax-deferred property;

1
2. Benefited property. Defer payment of special
3 assessments to benefited property which do not appear on the
4 assessment and tax roll; or

5
3. Land provisions. Affect any provision of any mortgage,
6 or other instrument relating to land, requiring a person to pay
7 property taxes.

8
9 §6265. Deed or contract clauses preventing application for
10 deferral prohibited; clauses void

11
12 After the effective date of this chapter, it shall be
13 unlawful for any mortgage trust deed or land sale contract to
14 contain a clause or statement that prohibits the owner from
15 applying for the benefits of the deferral of homestead property
16 taxes provided in this chapter. Any such clause or statement in
17 a mortgage trust deed or land sale contract executed after the
18 effective date of this chapter shall be void.

19
20 §6266. Senior Property Tax Deferral Revolving Account; sources;
21 uses

22
23 1. Revolving account. This section establishes in the
24 State Treasury the Senior Property Tax Deferral Revolving Account
25 to be used by the bureau for the purpose of making the payments
26 to municipal tax collectors of property taxes deferred for tax
27 years beginning on or after April 1, 1990, as required by section
28 6257.

29
30 2. Advancement of funds. The funds necessary to make
31 payments under subsection 1 shall be advanced to the bureau from
32 time to time as necessary by the Treasurer of State as an
33 appropriation from the General Fund.

34
35 3. Payments credited. All sums of money received by the
36 bureau under this chapter as repayments of deferred property
37 taxes including the interest accrued under section 6255,
38 subsection 3, shall, upon receipt, be credited to the revolving
39 account and shall be available for the purposes of subsection 1.

40
41 4. Appropriation request. If there is not sufficient money
42 in the revolving account to make the payments required by
43 subsection 1, the State Tax Assessor shall request an
44 appropriation from the General Fund which together with the money
45 in the revolving account will provide an amount sufficient to
46 make the required payments.

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5. General Fund reimbursement. When the bureau determines that funds in sufficient amounts are available in the revolving account, the bureau shall repay to the General Fund the amounts advanced as appropriations under subsection 2, plus accrued interest.

STATEMENT OF FACT

This bill alleviates property tax burdens on persons, age 62 years and older, by establishing provisions for a property tax deferral program.