

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1298

H.P. 932

House of Representatives, April 24, 1989

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative JACKSON of Harrison.

Cosponsored by Representative HIGGINS of Scarborough, Senator TWITCHELL of Oxford and Representative STROUT of Corinth.

STATE OF MAINE

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

An Act to Establish a Property Tax Homestead Exemption.



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

3 36 MRSA c. 105, sub-c. IV-A is enacted to read:

5 SUBCHAPTER IV-A

7 HOMESTEAD PROPERTY TAX EXEMPTION ACT

9 §671. Short title

11 This subchapter shall be known and may be cited as the
13 "Homestead Property Tax Exemption Act."

15 §672. Exemption of homesteads

17 1. Amount of exemption. Every person who has the legal
19 title or beneficial title in equity to real property in this
21 State and resides on that property, and in good faith makes that
23 property a permanent residence or the permanent residence of
25 another or others legally or naturally dependent on that person,
27 is entitled to an exemption from all taxation, except for
29 assessments for special benefits, on that property up to the
31 assessed value of \$20,000 based on 100% valuation assessment.
The exemption for properties assessed at less than 100% shall be
proportionally lower. The title may be held jointly or in common
with others, and the exemption may be apportioned among the
owners that reside on the property, as their respective interests
shall appear. No exemption on more than \$20,000 of assessed
value may be allowed to any one person or on any one dwelling
house.

33 2. Applicability. The exemption provided in this section
35 applies only to those parcels classified and assessed as
owner-occupied residential property or to the portion of property
so classified and assessed.

37 3. Additional exemptions. The exemptions provided in
39 sections 653 and 654 shall be in addition to the homestead
exemption.

41 §673. Permanent residency; factual determination by property
43 appraiser

45 Intention to establish a permanent residence in this State
47 is a factual determination to be made in the first instance by
49 the municipal assessor. For the purposes of this subchapter,
51 "permanent residence" means that place where a person has a true,
fixed and permanent home and principal establishment to which,
whenever absent, the person has the intention of returning. A
person may have only one permanent residence at a time. When a
permanent residence is established in a foreign state or country,

1 that residence is presumed to continue until the person indicates
2 that a change has occurred. No one factor is conclusive evidence
3 of the establishment or nonestablishment of permanent residence.
4 Relevant factors that may be considered by the municipal assessor
5 in making a determination of the intent of a person claiming a
6 homestead exemption to establish a permanent residence in this
7 State are as follows:

9 1. Formal declarations. Formal declarations of the
10 applicant;

11 2. Informal statements. Informal statements of the
12 applicant;

13 3. Place of employment. The place of employment of the
14 applicant;

15 4. Previous permanent residency. The previous permanent
16 residency by the applicant in another state or in another country
17 and the date that residency was terminated;

18 5. Voter registration. The place where the applicant is
19 registered to vote;

20 6. Driver's license. The place of issuance of a driver's
21 license to the applicant;

22 7. License tag. The place of issuance of a license tag on
23 any motor vehicle owned by the applicant;

24 8. Federal income tax returns. The address as listed on
25 federal income tax returns filed by the applicant; or

26 9. Maine intangible tax returns. The previous filing of
27 Maine intangible tax returns by the applicant.

28 **§674. Forms**

29 The Bureau of Taxation shall furnish to the municipal
30 assessor of each municipality a sufficient number of printed
31 forms to be filed by taxpayers claiming to be entitled to the
32 exemption and shall prescribe the content of those forms by rule.

33 **§675. Homestead exemptions; claims**

34 1. Application. At the time each taxpayer files a claim
35 for a homestead exemption, the municipal assessor shall deliver
36 to the taxpayer a receipt, signed by the municipal assessor or an
37 authorized designee, which appropriately identifies the property
38 covered in the application and bears the date the application was
39 received by the municipal assessor. The possession of the
40 exemption shall terminate if the taxpayer fails to file the
41 application within the time specified in the receipt.

1 receipt is conclusive proof of the timely filing of the
2 application.

3
4 2. False filing. Any person who knowingly gives false
5 information for the purpose of claiming a homestead exemption as
6 provided for in this subchapter is guilty of a Class E crime.

7
8 3. Reapplication. Any municipality may, at the request of
9 the municipal assessor and by majority vote of its governing
10 body, waive the requirement that an annual application be made
11 for exemption for property within the municipality after an
12 initial application is made and exemption granted, except that
13 reapplication shall be required when any property granted an
14 exemption is sold or otherwise disposed of, when the ownership
15 changes in any manner or when the applicant for homestead
16 exemption ceases to use the property as a homestead. In
17 deliberating on whether to waive the annual application
18 requirement, the governing body shall consider the possibility of
19 fraudulent homestead exemption claims which may occur due to the
20 waiver of the annual application requirement. It is the duty of
21 any property owner granted an exemption who is not required to
22 file an annual application to notify promptly the municipal
23 assessor when the use of the property changes so that the
24 municipal assessor may change the exempt status of the property.
25 Any property owner who fails to notify the municipal assessor
26 shall be subject to section 678. This subsection shall apply
27 only to exemptions requested pursuant to this section.

28 §676. Duty of municipal assessor

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30 The municipal assessor shall examine each claim for
31 exemption filed with the municipal assessor and if the claim is
32 found to be in accordance with law, shall mark the claim approved
33 and make the proper deductions on the tax books.

34 §677. Homestead exemptions; approval, refusal, hearings

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36 The municipal assessors of the several municipalities of the
37 State shall, as soon as practicable after April 1st of each year
38 and on or before July 1st of the same year, carefully consider
39 all applications for tax exemptions that have been filed in their
40 respective offices on or before March 1st of that year. If, upon
41 investigation, the municipal assessor finds that the taxpayer
42 applicant is entitled to the tax exemption applied for under the
43 law, the municipal assessor shall make any entries upon the tax
44 rolls of the municipality necessary to allow the exemption to the
45 taxpayer applicant. If, after due consideration, the municipal
46 assessor finds that the applicant is not entitled under the law
47 to the exemption asked for, the municipal assessor shall
48 immediately make out a notice of disapproval, giving the reasons
49 for disapproval, a copy of which shall be served on the taxpayer
50
51

1 applicant by the municipal assessor either by personal delivery
2 or by registered mail to the post office address given by the
3 taxpayer applicant and shall file the notice with the clerk of
4 the State Board of Property Tax Review. The notice of
5 disapproval of application for the exemption, when filed with the
6 board, shall constitute an appeal of the taxpayer applicant to
7 the board from the decision of the municipal assessor refusing to
8 allow the exemption for which application was made and the board
9 shall review the application and evidence presented to the
10 municipal assessor upon which the taxpayer applicant based the
11 claim for exemption and hear the taxpayer applicant in person or
12 by agent on behalf of the taxpayer applicant's right to an
13 exemption. The board shall reverse the decision of the municipal
14 assessor and grant exemption to the applicant if, in its
15 judgment, the taxpayer applicant is entitled to the exemption or
16 shall affirm the decision of the municipal assessor. That action
17 of the board is final unless the taxpayer applicant, within 15
18 days from the date of refusal of the application by the board,
19 files in the District Court of the county in which the homestead
20 is situated a proceeding against the municipal assessor for a
21 declaratory judgment or other appropriate proceeding. The
22 failure of the taxpayer to appear before the municipal assessor
23 or State Board of Property Tax Review or to file any paper other
24 than the application under section 675 shall not constitute any
25 bar or defense to further proceedings.

27 **§678. Homestead exemptions; lien imposed on property of person**
28 **claiming exemption although not a permanent resident**

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30
31 1. Tax lien. When the estate of any person is being
32 probated or administered in another state under an allegation
33 that that person was a resident of that state and the estate of
34 that person contains real property situated in this State for
35 which homestead exemption has been allowed pursuant to section
36 675 for any year or years within 10 years immediately prior to
37 the death of that person, then within 3 years after the death of
38 that person, the assessor of the municipality where the real
39 property is located shall, upon knowledge of that fact, record a
40 notice of tax lien against the property in the public records of
41 that municipality, and the property shall be subject to the
42 payment of all taxes for which an exemption was allowed, plus 15%
43 interest per year, unless the District Court having jurisdiction
44 over the ancillary administration in this State determines that
45 the decedent was a permanent resident of this State during the
46 year or years an exemption was allowed, in which case the lien
47 shall not be filed or, if filed, shall be canceled of record by
48 the municipal assessor of the municipality where the real estate
49 is located.

50
51 2. Property subject to tax. In addition to subsection 1,
upon determination by the municipal assessor that for any year or

1 years within the prior 10 years a person who was not entitled to
2 a homestead exemption was granted a homestead exemption from ad
3 valorem taxes, that person's property situated in this State
4 shall be subject to the taxes exempted plus 15% interest per
5 annum.

7 3. Collection. Taxes provided in this section shall be
8 collected in the same manner as existing ad valorem taxes and the
9 procedure in this section for recapturing taxes shall be
10 supplemental to any existing provision under the laws of this
11 State.

13 4. Notice. The lien provided for in this section shall not
14 attach to the property until the notice of tax lien is filed in
15 the public records of the municipality where the property is
16 located. Prior to the filing of the notice of lien, any
17 purchaser for value of the subject property shall purchase that
18 property free and clear of the lien.

21 **STATEMENT OF FACT**

23
24 This bill establishes a homestead property tax exemption.
25 Under this bill, up to \$20,000 of the assessed value of permanent
26 residences are exempt from taxation based on 100% valuation
27 assessment. The exemption for properties assessed at less than
28 100% shall be proportionally lower. The bill also establishes
29 the application, approval and appeal procedures associated with
30 the tax exemption as well as the remedies available against
31 property owners who claim the exemption without being permanent
residents.