

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

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H.P. 1620

House of Representatives, January 26, 1990

Submitted by the Department of Finance pursuant to Joint Rule 24.
Reference to the Committee on Taxation suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative JACKSON of Harrison.

Cosponsored by Senator EMERSON of Penobscot and Representative NADEAU of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Implement Changes for the Deferred Collection of
Homestead Property Taxes.



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, delay in the implementation of changes to the laws
pertaining to the deferred collection of homestead taxes may
result in unnecessary burdens on taxpayers and local property tax
administrators; and

8
10 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
12 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
14 safety; now, therefore,

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

18 **Sec. 1. 36 MRSA §6250, sub-§1,** as enacted by PL 1989, c. 534,
Pt. C, §1, is repealed.

20 **Sec. 2. 36 MRSA §6251, sub-§1,** as enacted by PL 1989, c. 534,
Pt. C, §1, is amended to read:

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

30 A. The individual or, in the case of 2 or more individuals
filing a claim jointly, each individual is 65 years of age
32 or older on April 1st of the year in which the claim is
filed; and

34 B. The individual has or, in the case of 2 or more
36 individuals filing a claim jointly, all of the individuals
together have, household income, as defined in section 6201,
38 subsection 7, of less than \$32,000 for the calendar year
immediately preceding the calendar year in which the claim
40 is filed.

42 The municipal assessor shall forward each claim filed under this
subsection to the bureau within 15 30 days of receipt, which
44 shall determine if the property is eligible for deferral.

46 **Sec. 3. 36 MRSA §6251, sub-§6,** as enacted by PL 1989, c. 534,
Pt. C, §1, is amended to read:

48
50 6. **Appeal.** Any person aggrieved by the denial of a claim
for deferral of homestead property taxes or disqualification from
52 deferral of homestead property taxes may file an appeal in the
manner of the State Tax Assessor's determination, within 30 days

2 of notification of denial or disqualification by the State Tax
4 Assessor, with the State Board of Property Tax Review as provided
6 in chapter 101, subchapter II-A.

8 **Sec. 4. 36 MRSA §6254**, as enacted by PL 1989, c. 534, Pt. C,
10 §1, is repealed and the following enacted in its place:

12 **§6254. State liens against tax-deferred property**

14 **1. Lien.** The lien provided in section 552 must continue
16 for purposes of protecting the State's deferred tax interest in
18 tax deferred property. When it is determined that one of the
20 events set out in section 6259 has occurred and that a property
22 is no longer eligible for property tax deferral under this
24 chapter, the State Tax Assessor shall send notice by certified
26 mail to the owner, or the owner's heirs or devisees, listing the
28 total amount of deferred property taxes, including accrued
30 interest and costs of all the years and demanding payment on or
32 before April 30th of the year following the tax year in which the
34 circumstances causing withdrawal from the provisions of this
36 chapter occur.

38 When the circumstances listed in section 6259, subsection 4
40 occur, the amount of deferred taxes is due and payable 5 days
42 before the date of removal of the property from the State.

44 If the deferred tax liability of a property has not been
46 satisfied by the April 30th demand date, the State Tax Assessor
48 shall, within 30 days, record in the registry of deeds in the
50 county where the real estate is located a tax lien certificate
52 signed by the State Tax Assessor or bearing the assessor's
facsimile signature, setting forth the total amount of deferred
tax liability, a description of the real estate on which the tax
was deferred and an allegation that a tax lien is claimed on the
real estate to secure payment of the tax, that a demand for
payment of the tax has been made in accordance with this section
and that the tax remains unpaid.

At the time of the recording of the tax lien certificate in the
registry of deeds, the State Tax Assessor shall send by certified
mail, return receipt requested, to each record holder of a
mortgage on the real estate, to the holder's last known address,
a true copy of the tax lien certificate. The cost to be paid by
the property owner, or the owner's heirs or devisees, is the sum
of the fees for recording and discharging of the lien as
established by Title 33, section 751, subsection 10, plus \$13.
Upon redemption, the State Tax Assessor shall prepare and record
a discharge of the tax lien mortgage. The lien described in
section 552 is the basis of this tax lien mortgage procedure.

The filing of the tax lien certificate, provided for in this
section, in the registry of deeds creates a mortgage on the real

2 estate to the State and has priority over all other mortgages,
4 liens, attachments and encumbrances of any nature and gives to
6 the State all rights usually instant to a mortgage, except that
8 the mortgagee does not have any right of possession of the real
10 estate until the right of redemption expires.

12 Payments accepted during the redemption period may not interrupt
14 or extend the redemption period or in any way affect the
16 foreclosure procedures.

18 2. Foreclosure. If the mortgage, including interest and
20 costs, is not paid within 12 months of the date on which the
22 certificate was filed in the registry of deeds, as provided in
24 this section, the mortgage is deemed foreclosed and the right of
26 redemption expired.

28 2-A. Inventory. The filing of the certificate in the
30 registry of deeds is sufficient notice of the existence of the
32 mortgage. Whenever the State acquires title to real estate, the
34 State Tax Assessor shall cause an inventory to be made of all
36 such real estate. The inventory must contain a description of
38 the real estate, amount of accrued taxes by years and any
40 information necessary to the administration and supervision of
42 the real estate. The State Tax Assessor shall report annually to
44 the Legislature not later than 15 days after the Legislature
46 convenes. The report must contain a copy of the inventory of
48 real estate then owned by the State and the recommendations for
50 the disposition of this real estate that the State Tax Assessor
makes.

2-B. Sale; Legislative authorization. After authorization
by the Legislature, the State Tax Assessor shall, sell or convey
any such real estate, but shall in all cases of sales, except
sales to former owners of the real estate, give public notice of
the proposal to sell the real estate and shall ask for
competitive bids and sell to the highest bidder with the right of
rejecting all bids. Sales of any such real estate may not be
made by the State Tax Assessor except by authorization of the
Legislature.

The supervision, administration, utilization and vindication of
the right of the State in any such real estate is vested in the
State Tax Assessor until the title is conveyed or otherwise
disposed of by the Legislature.

3. Foreclosure receipts. Following the sale by the State
Tax Assessor of real property acquired through the tax lien
certificate procedure outlined in this chapter, all claims of the
State evolving from the homestead property tax exemption are
satisfied, as well as any tax delinquencies relative to the
property in question in the municipality where located. The

2 residual amount resulting from the sale of the property is to be
3 returned to the former owner or to the owner's heirs or devisees.

4 **Sec. 5. 36 MRSA §6256**, as enacted by PL 1989, c. 534, Pt. C,
5 §1, is amended to read:

6
7 **1. Recording of liens.** For each municipality in which
8 there is tax-deferred property, the bureau shall cause to be
9 recorded in the mortgage records of the county, a list of
10 tax-deferred properties of that municipality. The list shall
11 must contain a description of the property as listed on the
12 assessment-roll in the municipal valuation together with the name
13 of the owner listed thereon on the valuation. The list shall
14 must be corrected each-time-an-additional-deferral-occurs-or
15 annually to reflect the addition or deletion of deferred
16 properties as well as partial payments are received.

17
18 **2. Notice of recording.** The recording of the tax-deferred
19 properties under subsection 1 is notice that the bureau claims a
20 lien against those properties in the amount of the deferred taxes
21 plus interest together with any fees paid to the county clerk
22 register of deeds in connection with the recording, release or
23 satisfaction of the lien, even though the amount of taxes,
24 interest or fees is not listed.

25 **Sec. 6. 36 MRSA §6257, sub-§1**, as enacted by PL 1989, c. 534,
26 Pt. C, §1, is repealed and the following enacted in its place:

27
28 **1. Payment of deferred taxes.** Within 30 days of the
29 receipt of information from a municipal tax collector concerning
30 the amount of deferred property taxes in the respective
31 municipality, the State Tax Assessor shall certify that amount to
32 the Treasurer of the State who shall make payment on or before
33 the 15th day of the following month.

34
35 **Sec. 7. 36 MRSA §6258**, as enacted by PL 1989, c. 534, Pt. C,
36 §1, is amended to read:

37 **§6258. Annual notice to taxpayer**

38
39 **1. Annual deferral notice.** On or before December 15th of
40 each year, the bureau shall send a notice to each taxpayer who
41 has claimed deferral of property taxes for the current tax year.
42 The notice shall must:

43
44 **A.** Inform the taxpayer that the property taxes have been
45 deferred in the current year;

46
47 **B.** Show the total amount of deferred taxes remaining unpaid
48 since initial application for deferral and the interest
49 accruing therein to November 15th of the current year;

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

6 D. Contain any other information that the bureau considers
8 necessary to facilitate administration of the homestead
10 deferral program including, but not limited to, the right of
12 the taxpayer to submit any amount of money to reduce the
14 total amount of the deferred taxes and interest.

16 2. **Notice mailed.** The bureau shall give the notice
18 required under subsection 1 by mail sent to the residence address
20 of the taxpayer as shown in the claim for deferral or as
22 otherwise determined by the bureau to be the correct address of
24 the taxpayer.

26 **Sec. 8. 36 MRSA §6264, sub-§2,** as enacted by PL 1989, c. 534,
28 Pt. C, §1, is repealed.

30 **Emergency clause.** In view of the emergency cited in the
32 preamble, this Act shall take effect when approved.

24 STATEMENT OF FACT

26 This bill accomplishes the following.

28 1. The bill repeals the definition of "benefited property"
30 in the law on deferred collection of homestead property taxes
32 since the definition is not needed to implement the law.

34 2. Because many municipalities have part-time elected
36 boards of assessors and do not maintain offices with regular
38 hours, this bill increases from 15 to 30 the number of days in
40 which the municipal officers are required to forward the claims
42 for tax deferral to the Bureau of Taxation.

44 3. This bill provides for a 30-day time frame in which
46 persons may appeal determinations of the State Tax Assessor
relative to the tax deferral program.

48 4. This bill repeals the existing lien procedure in the law
and replaces it with a more workable and defined lien process, as
well as a procedure for disposing of property acquired through
this process.

50 5. This bill requires the bureau to update annually the
52 list of tax deferred property maintained at the registry of deeds
rather than making a change each time an additional deferral
occurs or when partial payments are received.

2 6. This bill provides that the fees for recording and
maintaining lists of tax deferred property will be paid to the
register of deeds as opposed to the county clerk.

4

6 7. This bill establishes a time frame in which payment is
to be made to the municipalities for the taxes which have been
deferred for a particular year.

8

10 8. This bill also makes technical changes to the Maine
Revised Statutes, Title 36, section 6258. The section headnote
is changed to "annual notice to taxpayers" since the current
12 headnote infers that the taxpayer is required to claim deferral
each year.

14

16 9. This bill repeals another reference to "benefited
property" which is not applicable to this State.