

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 988

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H.P. 689

House of Representatives, March 8, 1991

Received by the Clerk of the House on March 6, 1991. Referred to the Committee on Taxation and 1400 ordered printed pursuant to Joint Rule 14.

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

EDWIN H. PERT, Clerk

Presented by Representative DORE of Auburn.

Cosponsored by Representative MAYO of Thomaston and Representative HOGLUND of Portland.

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STATE OF MAINE

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

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**An Act to Improve Collections of Income Tax Due Upon the Sale of  
Real Property.**

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

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36 MRSA §5250-A is enacted to read:

4  
6 §5250-A. Real estate reporting person to withhold tax  
from proceeds of sale

8 1. Definitions. As used in this section, unless the  
10 context otherwise indicates, the following terms have the  
following meanings.

12 A. "Maine real property interest" means an interest in real  
14 property described in the Internal Revenue Code, Section 897  
(c) (1) (A) (i) which is located in Maine.

16 B. "Real estate reporting person" means a bank, corporation  
18 or person involved in the real estate transaction and  
defined in order of priority in the Internal Revenue Code,  
Section 6045 (e).

20 2. General. In the case of any disposition of a Maine real  
22 property interest by a person, when the authorization for the  
24 disbursement of transaction's funds instructs that the funds be  
26 disbursed to a transferor with a last known address outside the  
28 boundaries of this State at the time of the transfer of the title  
30 to Maine real property or the authorization for the disbursement  
of funds instructs that the funds be disbursed to an agent of the  
transferor, the real estate reporting person shall be required to  
withhold a tax equal to 5% of the amount realized on the  
disposition.

32 A. A person may not be required to withhold any amount  
34 under this section if the transferor received a homeowner's  
property tax exemption for the Maine real property during  
the taxable year during which the transfer of title occurs.

36 B. A person may not be required to withhold any amount  
38 under this section if the transferor claims exemption, under  
40 penalty of perjury, on the grounds that the transferor's  
42 principal residence at the time of the transfer of title to  
the Maine real property is within the boundaries of this  
State.

44 C. A person may not be required to withhold any amount  
46 under this section if the amount realized on the disposition  
does not exceed \$10,000.

48 3. Reduced amount authorized. At the request of the  
50 transferor, the State Tax Assessor may authorize a reduced amount  
to be withheld under this section if the State Tax Assessor

2 determines that to substitute a reduced amount does not  
jeopardize the collection of tax imposed by this part.

4 A. Within 30 days after receiving a request to substitute a  
6 reduced amount to be withheld, the State Tax Assessor shall  
either authorize a reduced amount to be withheld or deny the  
8 request to substitute a reduced amount to be withheld.

10 B. If the State Tax Assessor denies a request to substitute  
12 a reduced amount to be withheld, the transferor may provide  
14 evidence to satisfy the State Tax Assessor that the tax  
imposed by this part is secured by bond, deposit or  
otherwise, at which time the State Tax Assessor shall issue  
an authorization.

16 C. If the transferor has not requested that a reduced  
18 amount be withheld or the response to the request by the  
20 State Tax Assessor has not been received at the time title  
22 to the Maine real property is transferred, the transferor  
24 may direct the real estate reporting person to hold in trust  
for 30 days the amount required to be withheld under this  
section. At the end of 30 days, the real estate reporting  
person shall remit the amount withheld to the State Tax  
Assessor in accordance with this section, unless the State  
Tax Assessor has authorized a reduced amount to be withheld.

26 4. Alternative amount. For any transferor subject to the  
28 Internal Revenue Code, Section 1445, the amount required to be  
30 withheld is 1/3 of the amount required under the Internal Revenue  
Code, Section 1445.

32 5. Penalties. In addition to any other penalties  
34 prescribed by law, unless it is shown that the failure to  
36 withhold is due to reasonable cause, whenever any real estate  
38 reporting person is required to withhold any amount pursuant to  
this section, that person is liable for the following amounts for  
failure to withhold only after the person, as specified, is  
notified in writing by the State Tax Assessor or a duly  
authorized representative:

40 A. One and one-half times the fee earned by the real estate  
42 reporting person for the disposition of the Maine real  
44 property; and

46 B. If the failure to withhold was due to negligence or  
48 disregard, the amount of tax required to be withheld  
pursuant to this section. For purposes of this paragraph,  
"negligence" includes any failure to make a reasonable  
50 attempt to comply with the tax withholding provisions and  
"disregard" includes any careless, reckless or intentional  
52 disregard.

