

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2208

S.P. 864

In Senate, January 23, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Taxation suggested and ordered printed.

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

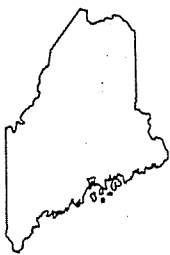
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ESTY of Cumberland
Cosponsored by Representative WHITCOMB of Waldo and Senator BOST of Penobscot.

STATE OF MAINE

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

An Act to Amend the Laws Related to Property Tax Abatements.



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

2
4 **Sec. 1. 36 MRSA §841, sub-§2**, as repealed and replaced by PL 1987, c. 772, §15, is repealed.

6 **Sec. 2. 36 MRSA §841, sub-§5**, as repealed and replaced by PL 1987, c. 772, §16, is amended to read:

8 **5. Certification; record.** Whenever an abatement is made, other than by the State Tax Assessor, the abating authority shall certify it in writing to the collector, and that certificate shall ~~discharge~~ discharges the collector from further obligation to collect the tax so abated. When the abatement is made, ~~either than an abatement made under subsection 2,~~ a record setting forth the name of the party or parties benefited, the amount of the abatement and the reasons for the abatement shall ~~shall~~ must, within 30 days, be made and kept in suitable book form open to the public at reasonable times. A report of the abatement shall ~~shall~~ must be made to the municipality at its annual meeting or to the mayor and ~~aldermen~~ municipal officers of cities by the first Monday in each March.

22 **Sec. 3. 36 MRSA §841-D** is enacted to read:

24 **§841-D. Abatement or deferral due to infirmity or poverty;**
26 **nonforeclosing lien**

28 **1. Abatements; waiver of lien.** At any time prior to the lien foreclosure established in section 943, the municipal officers or the State Tax Assessor for the unorganized territory on their own knowledge or on written application may defer payment of taxes or make such abatements as they believe reasonable on the real taxes owed on a person's principal residence and personal taxes owed by all persons who, by reason of infirmity or poverty, are in their judgment unable to contribute to the public charges. If a person is eligible to have taxes abated due to poverty or infirmity, the municipal officers or the State Tax Assessor for the unorganized territory, may abate the taxes or at their discretion defer payment of the taxes by filing a waiver of automatic foreclosure in the registry of deeds of the county where the real estate is situated. If the waiver is filed prior to the filing of a lien certificate pursuant to section 942, the tax collector must file that tax lien certificate in order to preserve the lien. The waiver of the lien remains in effect until the death of the taxpayer, the sale of the property or the taxes are paid in full, whichever occurs first.

48 **2. Notice.** Beginning with the taxes that are assessed after April 1, 1992, each notice under section 942, section 943 and section 1282 that is sent by a municipality or the State Tax

2 Assessor to a person against whom taxes have been assessed must
4 contain a statement that the person may apply for an abatement or
6 deferral of taxes if that person can not pay the taxes that have
8 been assessed due to poverty or infirmity.

10 3. Eligibility. Persons requesting an abatement or
12 deferral of property taxes assessed on their principal residence
14 and land on which it is built up to 10 acres are eligible for a
16 full or partial abatement or deferral if:

18 A. The household income has not been sufficient to pay for
20 basic necessities essential to maintain the household
22 including the full or partial amount assessed for property
24 taxes during the period for which the abatement or deferral
26 is being sought; and

28 B. The person applying for the abatement or deferral is the
30 sole owner or if the person is an owner in common or joint
32 tenancy of the fee simple estate and all owners meet the
34 standards of eligibility.

36 4. Application. Any time after an individual has received
38 notice of the amount of property taxes owed and prior to a tax
40 lien foreclosure as provided in section 943, the persons to whom
42 the property is assessed may apply for an abatement or deferral
44 of the property taxes on their principal residence by filing an
46 application with the municipal officers or the State Tax Assessor
48 in the unorganized territory. An application must be filed for
50 each year for which persons wish to have their taxes abated or
52 deferred.

54 5. Forms; decision. The municipal officers or the State
56 Tax Assessor in the case of unorganized territories must have
58 forms available for people to apply for abatement or deferral of
60 taxes. Applicants must provide all information that is necessary
62 to determine eligibility, including a statement of verification
64 from the applicant that the information contained in the claim is
66 true. Applications and any information, communications, files or
68 other material related to an application for an abatement or
70 deferral and the decision on the request are confidential.
72 Applicants must be informed that a decision on their request must
74 be made within 30 days of receiving a completed application.
76 Proceedings related to an application are not public proceedings
78 under Title 1, chapter 13 unless requested by the applicant. The
80 decision on a request for an abatement or deferral must contain
82 the specific reason or reasons for the decision and inform the
84 applicant of the right to appeal the decision.

86 6. Appeal. A person aggrieved by the denial of a request
88 for abatement or deferral may appeal in the manner provided in
90 section 843 or 844. Appeals filed on the basis of poverty or
92 infirmity are not considered public proceedings.

2 7. Events requiring payment of deferred taxes and
3 interest. If a waiver of a lien has been filed under subsection
4 1, the deferred taxes, including accrued interest, become payable
5 to satisfy the recorded lien when:

6 A. The taxpayer who received a deferral of property taxes
7 dies;

8 B. The property for which the waiver of lien is filed is
9 sold, a contract to sell is entered into or some person
10 other than the taxpayer who was granted the deferral becomes
11 the owner of the property;

12 C. The property is no longer the principal residence of the
13 taxpayer who was granted the deferral; or

14 D. The property is manufactured housing and is being moved
15 out of the State.

16 When any of the circumstances listed in this subsection occurs,
17 the amount of the deferred property taxes, including accrued
18 interest, for all years deferred is due and payable within 60
19 days of the date on which the circumstance occurs. If the
20 amounts falling due as provided in this section are not paid,
21 those amounts are considered delinquent as of that date and
22 subject to foreclosure as provided in section 943. If taxes have
23 been deferred on property that is to be moved, the taxes are due
24 and payable 5 days before the date of removal of the property
25 from the State.

26 Sec. 4. 36 MRSA §842, as amended by PL 1991, c. 546, §11, is
27 further amended to read:

28 **§842. Notice of decision**

29 The assessors, municipal officers, chief assessor or the
30 State Tax Assessor, in the case of the unorganized territory,
31 shall give to any person applying to them for an abatement of
32 taxes notice in writing of their decision upon the application
33 within 10 days after they take final action thereon. The notice
34 of decision must state that the applicant has 60 days from the
35 date the notice is received to appeal the decision. It must also
36 identify the board or agency designated by law to hear the
37 appeal. If the assessors, municipal officers, chief assessor or
38 State Tax Assessor, before whom an application in writing for the
39 abatement of a tax is pending, fails to give written notice of
40 their a decision within 60 days from the date of filing of the
41 application, the application is deemed to have been denied, and
42 the applicant may appeal as provided in sections 843 and 844,
43 unless the applicant has in writing consented to further delay.

2 Denial in this manner is final action for the purposes of
3 notification under this section but failure to send notice of
4 decision does not affect the applicant's right of appeal. This
5 section does not apply to applications for abatement made under
6 section-841,-subsection-2 841-D.

7 **Sec. 5. 36 MRSA §6216, 2nd ¶, as amended by PL 1989, c. 614, is**
8 further amended to read:

9 Benefits received under this chapter may not be included as
10 income for purposes of any state or municipally administered
11 public benefit program but may be considered for purposes of
12 determining eligibility for abatement under section 841,
13 subsection-2 841-D.

14 STATEMENT OF FACT

15 The purpose of the poverty abatement law is to ensure that
16 people do not lose their home due to their inability to pay their
17 property taxes. This bill amends that law by establishing
18 eligibility criteria and making it clear that people may receive
19 an abatement of taxes owed on their principal residence only, not
20 on seasonal or commercial property or other real estate. The
21 bill also establishes a process for the municipal officers to
22 grant an abatement or, as an alternative, to defer payment of the
23 taxes by waiving the automatic foreclosure of a lien pursuant to
24 the Maine Revised Statutes, Title 36, section 943. The municipal
25 officers will have the option of either granting an abatement or
26 placing a nonforeclosing lien on the property in order to recover
27 the lost taxes in the future. The deferral and waiver of a lien
28 is made discretionary to distinguish it from the existing waiver
29 process in Title 36, section 944 which requires action by the
30 municipal legislative body.
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