

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 11

S.P. 13

In Senate, January 9, 1997

An Act to Clarify the Law Governing Property Tax Exemptions for Charitable and Benevolent Institutions and Literary and Scientific Institutions.

(EMERGENCY)

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 CAREY of Kennebec.

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

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6 Whereas, the 90-day period will not expire until after
municipalities have issued tax bills; and

8 Whereas, if this legislation is enacted as an emergency
measure, the municipalities will avoid additional costs involved
10 in returning taxes paid in excess of those required under this
bill; and

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

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

20 **Sec. 1. 36 MRSA §652, sub-§1, ¶A,** as corrected by RR 1995, c.
22 2, §93, is amended to read:

24 A. The That portion of the real estate and personal
property owned and occupied or used solely for their own
26 purposes by benevolent and charitable institutions
incorporated by this State, and none of these may be
28 deprived of the right of exemption by reason of the source
from which its funds are derived or by reason of limitation
30 in the classes of persons for whose benefit such funds are
applied.

32 (1) Any such institution that is in fact conducted or
34 operated principally for the benefit of persons who are
not residents of Maine is entitled to an exemption not
36 to exceed \$50,000 of current just value only when the
total amount of any stipends or charges that it makes
38 or takes during any tax year, as defined by section
502, for its services, benefits or advantages divided
40 by the total number of persons receiving such services,
benefits or advantages during the same tax year does
42 not result in an average rate in excess of \$30 per week
when said weekly rate is computed by dividing the
44 average yearly charge per person by the total number of
weeks in a tax year during which such institution is in
46 fact conducted or operated principally for the benefit
of persons who are not residents of Maine. No such
48 institution that is in fact conducted or operated
principally for the benefit of persons who are not
50 residents of Maine and makes charges that result in an

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average weekly rate per person, as computed under this subparagraph, in excess of \$30 may be entitled to tax exemption. This subparagraph does not apply to institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research.

For the purposes of this paragraph, "benevolent and charitable institutions" include, but are not limited to, nonprofit nursing homes and nonprofit boarding homes and boarding care facilities licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or its successor, nonprofit community mental health service facilities licensed by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, pursuant to Title 34-B, chapter 3 and nonprofit child care centers incorporated by this State as benevolent and charitable institutions. For the purposes of this paragraph, "nonprofit" means a facility exempt from taxation under Section 501(c)(3) of the Code;

Sec. 2. 36 MRSA §652, sub-§1, ¶B, as amended by PL 1979, c. 467, §2, is further amended to read:

B. ~~The~~ That portion of the real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions. If any building or part of a building is used primarily for employee housing, that building, or that part of the building used for employee housing, ~~shall~~ is not be exempt from taxation.

Sec. 3. Application. This Act applies to any tax year beginning on or after January 1, 1996.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

SUMMARY

The Supreme Judicial Court of Maine recently ruled that organizations claiming exemption from real estate taxes as charitable and benevolent institutions are required to demonstrate that the properties for which they claim exemption are owned and occupied or used solely for their own purposes. (City of Lewiston v. Marcotte Congregate Housing, Inc., Decision No. 756, March 5, 1996). This bill revises the law to conform to what had been the practice in many jurisdictions prior to the Marcotte decision which is to deny property tax exemption only on

2 that portion of property not used for a charitable, benevolent,
literary or scientific purpose.