

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2048

H.P. 1457

House of Representatives, January 15, 1998

An Act to Provide Property Tax Relief and to Ensure Equitable School Funding.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BRENNAN of Portland.
Cosponsored by Senator PENDLETON of Cumberland and
Representatives: BRYANT of Dixfield, GAGNON of Waterville, LEMAIRE of Lewiston,
TOWNSEND of Portland, WATSON of Farmingdale, Senators: PARADIS of Aroostook,
SMALL of Sagadahoc.

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

4 **Sec. 1. 20-A MRSA §15602**, as amended by PL 1997, c. 469, §1,
is repealed and the following enacted in its place:

6 **§15602. Appropriation: intent**

8 For fiscal year 1998-99, the Legislature shall appropriate
10 at least 10% more for the total allocation than was appropriated
12 for fiscal year 1997-98. It is the intent of the Legislature,
14 beginning with fiscal year 1999-2000, to provide at least 51% of
16 the cost of essential education services as defined by the
18 Legislature or a percentage no less than that provided in the
20 prior year, whichever is greater. The Legislature shall enact
22 legislation defining "essential education services."

24 **Sec. 2. 20-A MRSA §15605, sub-§1**, as amended by PL 1993, c.
26 410, Pt. KKK, §1, is further amended to read:

28 1. **Annual certification.** Prior to December 15th of each
30 year, the commissioner, with the approval of the state board,
32 shall certify to the Governor and the Bureau of the Budget the
34 funding levels that the commissioner recommends for sections
36 15604 and 15612. ~~Commencing with the certification in December~~
38 ~~of 1994 and each December thereafter, the commissioner's~~
40 ~~recommended funded level may not exceed 105% of the funding level~~
42 ~~in effect for the fiscal year then in progress. The~~
44 certification for the fiscal year ending on June 30, 1994 must be
consistent with the level of funding provided in the fiscal year
1994-95 biennial budget.

46 **Sec. 3. 20-A MRSA §15653, sub-§3**, as enacted by PL 1995, c.
48 368, Pt. Z, §1 and affected by §2, is amended to read:

50 3. **Legislature's contribution.** The commissioner's
recommendation for an appropriation for the Legislature's
contribution to the per pupil guarantee for all subsidizable
pupils in all school administrative units must be at least the
amount of the corresponding appropriation for the prior fiscal
year, unless a lesser amount is necessary to ensure compliance
with section 15607, subsection 1. ~~The appropriation may not~~
~~exceed 105% of the corresponding appropriation for the prior~~
~~fiscal year.~~

Sec. 4. 36 MRSA c. 105, sub-c. IV-B is enacted to read:

SUBCHAPTER IV-B

HOMESTEAD EXEMPTION FOR EDUCATION COSTS

2
3 **§681. Definitions**

4 As used in this subchapter, unless the context otherwise
5 indicates, the following terms have the following meanings.

6 **1. Cooperative apartment corporation.** "Cooperative
7 apartment corporation" means a corporation, whether for profit or
8 nonprofit, organized for the purpose of owning, maintaining and
9 operating an apartment building or apartment buildings to be
10 occupied by its stockholders or members.

11 **2. Permanent residence.** "Permanent residence" means that
12 place where a person has a true, fixed and permanent home and
13 principal establishment to which, whenever absent, the person has
14 the intention of returning. A person may have only one permanent
15 residence at a time and, once a permanent residence is
16 established in a foreign state or country, it is presumed to
17 continue until the person shows that a change has occurred.

18 **3. Permanent resident.** "Permanent resident" means a person
19 who has established a permanent residence as defined in
20 subsection 1.

21 **4. Real estate used and owned as a homestead.** "Real estate
22 used and owned as a homestead" means real property less any
23 portion of that real property used for commercial purposes.

24 **5. Tenant-stockholder or member.** "Tenant-stockholder or
25 member" means an individual who is entitled, solely by reason of
26 that individual's ownership of stock or membership in a
27 cooperative apartment corporation, to occupy for dwelling
28 purposes an apartment in a building owned by that corporation. A
29 corporation leasing land for a term of 98 years or more for the
30 purpose of maintaining and operating a cooperative apartment on
31 that land is considered the owner for purposes of this exemption.

32 **§682. Permanent residency; factual determination by municipal**
33 **assessor**

34 Intention to establish a permanent residence in this State
35 is a factual determination to be made, in the first instance, by
36 the municipal assessor. Although any one factor is not
37 conclusive of the establishment or nonestablishment of permanent
38 residence, the following are relevant factors that may be
39 considered by the municipal assessor in making a determination as
40 to the intent of a person claiming a homestead exemption to
41 establish a permanent residence in this State:

42 **1. Formal declarations.** Formal declarations of the
43 applicant:

2 **2. Informal statements.** Informal statements of the
3 applicant;

4
5 **3. Place of employment.** The place of employment of the
6 applicant;

7
8 **4. Previous permanent residency.** The previous permanent
9 residency by the applicant in a state other than Maine or in
10 another country and the date non-Maine residency was terminated;

11
12 **5. Voter registration.** The place where the applicant is
13 registered to vote;

14
15 **6. Driver's license.** The place of issuance of a driver's
16 license to the applicant;

17
18 **7. License tag.** The place of issuance of a license tag on
19 any motor vehicle owned by the applicant;

20
21 **8. Federal income tax returns.** The address as listed on
22 federal income tax returns filed by the applicant; or

23
24 **9. Intangible property.** Intangible property listed on the
25 most recent state tax return filed by the applicant.

26
27 **§683. Exemption of homesteads**

28
29 **1. Amount of exemption.** Every person who has the legal
30 title or beneficial title in equity to real property in this
31 State and who resides on that real property, and in good faith
32 makes the same that person's permanent residence or the permanent
33 residence of another or others legally or naturally dependent
34 upon that person, is entitled to an exemption from all taxation,
35 except for assessments for special benefits, of \$10,000 of the
36 just value of the residence and up to 10 acres of contiguous real
37 property. The title may be held jointly or in common with
38 others, and the exemption may be apportioned among the owners
39 that reside on the property, to the extent of their respective
40 interests; but no exemption of more than \$10,000 of just value
41 may be allowed to any one person or on any one dwelling house,
42 except that an exemption of \$10,000 of just value may be allowed
43 on each apartment occupied by a tenant-stockholder or member of a
44 cooperative apartment corporation and on each condominium parcel
45 occupied by its owner; nor may the amount of the exemption
46 allowed any person exceed the proportionate just value based on
47 the interest owned by that person.

48
49 **2. Exemption imposed on education portion of the property**
50 **tax assessment.** The exemption authorized by this section must be

2 applied only to that portion of the property tax assessment that
3 is attributable to education costs.

4 3. Applicability. The exemption provided in this section
5 applies only to those parcels classified and assessed as
6 owner-occupied residential property or only to the portion of
7 property classified and assessed as owner-occupied residential
8 property.

10 4. Exemptions in addition to other exemptions. The
11 exemptions provided sections 653 and 654 are in addition to the
12 homestead exemption.

14 **§684. Forms**

16 The Bureau of Revenue Services shall furnish to the
17 municipal assessor of each municipality a sufficient number of
18 printed forms to be filed by taxpayers claiming to be entitled to
19 the exemption under section 683 and shall prescribe the content
20 of those forms by rule. Rules adopted pursuant to this section
21 are routine technical rules as defined in Title 5, chapter 375,
22 subchapter II-A.

24 **§685. Application**

26 1. Filing claims. At the time each taxpayer files claim
27 for a homestead exemption, the municipal assessor shall deliver
28 to the taxpayer a receipt over the municipal assessor's
29 signature, or that of an authorized designee that must
30 appropriately identify the property covered in the application,
31 bear the date the application is received by the municipal
32 assessor and include any serial number or other identifying data
33 desired by the municipal assessor. The possession of the receipt
34 constitutes conclusive proof of the timely filing of the
35 application.

36 2. False filing. A person who knowingly gives false
37 information for the purpose of claiming a homestead exemption as
38 provided for in this chapter is guilty of a Class E crime.

39 3. Reapplication. Any municipality may, at the request of
40 the municipal assessor and by majority vote of its governing
41 body, waive the requirement that an annual application be made
42 for exemption for property within the municipality after an
43 initial application is made and exemption granted, except that
44 reapplication is required when any property granted an exemption
45 is sold or otherwise disposed of, when the ownership changes in
46 any manner or when the applicant for homestead exemption ceases
47 to use the property as a homestead. In its deliberations on
48 whether to waive the annual application requirement, the
49 assessor shall consider the interests of the municipality and the
50 taxpayers of the municipality.

2 governing body shall consider the possibility of fraudulent
3 homestead exemption claims that may occur due to the waiver of
4 the annual application requirement. It is the duty of the owner
5 of any property granted an exemption who is not required to file
6 an annual application to notify the municipal assessor promptly
7 whenever the use of the property changes so as to change the
8 exempt status of the property. Any property owner who fails to
9 notify the municipal assessor is subject to the provisions of
10 section 688. This subsection applies only to exemptions
11 requested pursuant to this section.

12 **§686. Duty of municipal assessor**

13 The municipal assessor shall examine each claim for
14 exemption filed with the municipal assessor and, if the claim is
15 found to be in accordance with law, shall mark the claim approved
16 and make the proper deductions on the tax books.

17 **§687. Homestead exemptions; approval; refusal; hearings**

18 The municipal assessors of the several municipalities of the
19 State shall, as soon as practicable after April 1st of each
20 current year and on or before July 1st of that year, carefully
21 consider all applications for tax exemptions that have been filed
22 in their respective offices on or before March 1st of that year.
23 If, upon investigation, the municipal assessor finds that the
24 applicant is entitled to the tax exemption applied for under the
25 law, the municipal assessor shall make entries upon the tax rolls
26 of the municipality necessary to allow the exemption to the
27 applicant. If, after due consideration, the municipal assessor
28 finds that the applicant is not entitled under the law to the
29 exemption, the municipal assessor shall immediately make out a
30 notice of disapproval that includes the reasons for disapproval.
31 A copy of the notice must be served upon the applicant by the
32 municipal assessor either by personal delivery or by registered
33 mail to the post office address given by the applicant, and the
34 municipal assessor shall file the notice with the clerk of the
35 State Board of Property Tax Review. The notice of disapproval of
36 application for the exemption, when filed with the board,
37 constitutes an appeal of the applicant to the board from the
38 decision of the municipal assessor refusing to allow the
39 exemption, and the board shall review the application and
40 evidence presented to the municipal assessor upon which the
41 applicant based the claim for exemption and shall hear the
42 applicant in person or by agent on behalf of the applicant's
43 right to an exemption. The board shall reverse the decision of
44 the municipal assessor and grant the exemption to the applicant
45 if in its judgment the applicant is entitled to the exemption or
46 affirm the decision of the municipal assessor. The action of the
47 board is final unless the applicant, within 15 days from the date
48
49
50

2 of refusal of the application by the board, files in the District
3 Court of the county in which the homestead is situated a
4 proceeding against the municipal assessor for a declaratory
5 judgment or other appropriate proceeding. The failure of the
6 taxpayer to appear before the municipal assessor or State Board
7 of Property Tax Review or to file any paper other than the
8 application as in section 685 does not constitute any bar or
9 defense to further proceedings.

10 **§688. Lien imposed on property of person claiming exemption**
11 **although not permanent resident**

12
13 1. Tax lien. When the estate of any person is being
14 probated or administered in another state under an allegation
15 that that person was a resident of that state and the estate of
16 the person contains real property situated in this State upon
17 which a homestead exemption has been allowed pursuant to section
18 685 for any year or years within 10 years immediately prior to
19 the death of the person, then within 3 years after the death of
20 that person the assessor of the municipality where the real
21 property is located shall, upon knowledge of that fact, record a
22 notice of tax lien against the property among the public records
23 of that municipality, and the property is subject to the payment
24 of all taxes previously found exempt, plus 15% interest per year,
25 unless the District Court having jurisdiction over the ancillary
26 administration in this State determines that the decedent was a
27 permanent resident of this State during the year or years an
28 exemption was allowed, in which case the lien may not be filed
29 or, if filed, must be canceled of record by the municipal
30 assessor of the municipality where the real estate is located.

31
32 2. Property subject to tax. In addition to subsection 1,
33 upon determination by the municipal assessor that for any year or
34 years within the prior 10 years a person who was not entitled to
35 a homestead exemption was granted a homestead exemption from ad
36 valorem taxes, that person's property that is situated in this
37 State is subject to the taxes previously exempted, plus 15%
38 interest per year.

39
40 3. Collection. The collection of taxes provided in this
41 section must be in the same manner as existing ad valorem taxes
42 and the procedure for recapturing taxes under this section is
43 supplemental to any existing provision under the laws of this
44 State.

45
46 4. Notice. The lien provided in this section does not
47 attach to the property until the notice of tax lien is filed
48 among the public records of the municipality where the property
49 is located. Prior to the filing of the notice of lien, any
50 purchaser for value of the subject property takes free and clear
of the lien.

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SUMMARY

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This bill provides a homestead exemption of \$10,000 applied to the portion of the property tax assessment attributable to education costs. The bill also requires the State to fund 51% of the costs of essential education services as defined by the Legislature.

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