

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 124

H.P. 120

House of Representatives, January 11, 2001

**An Act to Allow for a Prorated Application of Property Tax Exemptions  
for Charitable and Benevolent Institutions.**

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MAYO of Bath.  
Cosponsored by Senator LEMONT of York and  
Representatives: BOUFFARD of Lewiston, MURPHY of Berwick, STANLEY of Medway,  
SULLIVAN of Biddeford.

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

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**Sec. 1. 36 MRSA §652, sub-§1, ¶A**, as amended by PL 1997, c. 668, §20, is further amended to read:

A. The real estate and personal property or portions thereof owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State. Such an institution may not be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied.

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 real estate and personal property or portions thereof 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. 36 MRSA §652, last ¶**, as enacted by PL 1993, c. 422, §5, is amended to read:

An organization or institution that desires to secure exemption under this section shall make written application and file written proof of entitlement for each parcel to be considered on or before the first day of April in the year in which the exemption is first requested with the assessors of the municipality in which the property would otherwise be taxable. If granted, the exemption continues in effect until the assessors determine that the organization or institution is no longer

2 qualified. Proof of entitlement must indicate the specific basis  
upon which exemption is claimed. If exemption is claimed for a  
4 portion of property under subsection 1, paragraph A or B, proof  
of entitlement must include details of the occupancy or use of  
6 the entire property and such further data as the assessors may  
require in order to prorate the assessed value of the entire  
8 property between the exempt portion and the nonexempt portion.

10 **Sec. 4. Application.** This Act applies to tax years beginning  
on or after April 1, 2002.

## 12 SUMMARY

14 The Supreme Court of Maine ruled in City of Lewiston v.  
16 Marcotte Congregate Housing, Inc., 673 A.2d 209 (Me. 1996) that  
18 charitable and benevolent institutions must use the entirety of a  
parcel of land for their own purposes in order to obtain a  
20 property tax exemption. This bill revises the law to conform to  
what had been the practice in many jurisdictions prior to the  
22 Marcotte decision, which is to allow the property tax exemption  
on a prorated basis for those portions of property used for the  
24 purposes of a charitable or benevolent institution or a literary  
or scientific institution.