

MAINE STATE LEGISLATURE

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Legislative Document

No. 402

H.P. 318

House of Representatives, January 29, 2007

**An Act To Clarify the Application of the Real Estate Transfer Tax
with Regard to Partial Sales of Corporations That Own Real Estate**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CRESSEY of Cornish.

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

2 **Sec. 1. 36 MRSA §4641, sub-§3**, as amended by PL 2001, c. 559, Pt. I, §2 and
3 affected by §15, is further amended to read:

4 **3. Value.** "Value" means the amount of the actual consideration for real property,
5 except that in the case of a gift, or a contract or deed with nominal consideration or
6 without stated consideration, or in the case of the transfer of a controlling interest in an
7 entity with a fee interest in real property when the consideration for the real property
8 cannot be determined, "value" is to be based on the estimated price a property will bring
9 in the open market and under prevailing market conditions in a sale between a willing
10 seller and a willing buyer, both conversant with the property and with prevailing general
11 price levels.

12 "Value" does not include the amount of consideration attributable to vacation exchange
13 rights, vacation services or club memberships or the costs associated with those rights,
14 services or memberships. Upon request of a municipal assessor or the State Tax
15 Assessor, a developer of a time-share estate, as defined in Title 33, section 591,
16 subsection 7, or an association of time-share estate owners shall provide an itemized
17 schedule of fees included in the sales price of a time-share estate.

18 With respect to the transfer of a controlling interest, "value" means the same percentage
19 of real property value as the percentage of the entity that was sold or otherwise
20 transferred during the 12 months preceeding the sale of the real property.

21 **SUMMARY**

22 This bill changes the basis upon which the value of real estate is determined for real
23 estate transfer tax purposes. It specifies that when a portion of an entity is sold, but the
24 entity retains ownership in real estate, the value of the real estate subject to the real estate
25 transfer tax is based only on the percentage of the entity that was transferred during the
26 12-month period preceding the real estate transaction.