

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1584

S.P. 555

March 20, 2007

An Act To Authorize Arbitration of Property Tax Valuation Disputes

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 SMITH of Piscataquis.

Cosponsored by Senator: HASTINGS of Oxford, Representative: CAIN of Orono.

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

2 **Sec. 1. 36 MRSA §843, sub-§1**, as amended by PL 1995, c. 262, §4, is repealed
3 and the following enacted in its place:

4 **1. Municipalities with board of assessment review; binding arbitration.** If a
5 municipality has adopted a board of assessment review, the provisions of this subsection
6 apply.

7 A. If the assessors or the municipal officers refuse to make the abatement asked for,
8 the applicant may apply in writing to the board of assessment review within 60 days
9 after notice of the decision from which the appeal is being taken or after the
10 application is deemed to have been denied by the municipal officers. If the board
11 determines the applicant is over-assessed, the applicant is granted such reasonable
12 abatement as the board thinks proper. If the board of assessment review fails to give
13 written notice of its decision within 60 days of the date the application is filed, unless
14 the applicant agrees in writing to further delay, the application is deemed denied and
15 the applicant may appeal to the Superior Court as if there had been a written denial or
16 submit the request for abatement to binding arbitration as provided in paragraph C.

17 B. Except with regard to nonresidential property or properties with an equalized
18 municipal valuation of \$1,000,000 or greater either separately or in the aggregate,
19 either party may appeal from the decision of the board of assessment review directly
20 to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil
21 Procedure. The applicant may submit the request for abatement to binding arbitration
22 as provided in paragraph C.

23 C. An applicant may submit an application that has been denied by the board of
24 assessment review to binding arbitration by providing written notice to the
25 municipality within the time period for appealing the decision of the board of
26 assessment review to the Superior Court. The applicant's election to submit to
27 binding arbitration stays any timely filed appeal to the Superior Court by the
28 municipality.

29 The arbitration must be before a neutral party, jointly chosen by the municipality and
30 the applicant, who:

31 (1) Is experienced in real estate valuation;

32 (2) Is not a resident of the municipality;

33 (3) Does not own property in the municipality; and

34 (4) Does not have a material business or social relationship to the applicant, the
35 municipality or the municipal officials.

36 If the applicant and the municipality cannot agree upon an arbitrator within 14 days
37 of submission to arbitration, the Superior Court, upon request of either the
38 municipality or the applicant, shall appoint a neutral arbitrator in accordance with
39 subparagraphs (1) to (4). The cost of the arbitrator must be shared equally between
40 the municipality and the applicant, except that the arbitrator may decide that the
41 conduct of the parties requires a different allocation of the costs.

1 The arbitrator shall hold a de novo hearing to determine the fair value of the
2 applicant's property, assuming a willing buyer and seller and a marketing period of
3 between 3 months and 6 months. The applicant and the municipality may present
4 relevant evidence, cross-examine witnesses and be represented by counsel. The
5 arbitrator is solely responsible for making reasonable determinations of procedure
6 and admissibility of evidence, including compulsion of witnesses, production of
7 evidence and adjournment of the arbitration for good cause shown. The arbitrator
8 shall render a written decision within 60 days of appointment. Upon agreement of
9 both parties, the time restrictions in this paragraph may be waived.

10 The Superior Court shall confirm the timely filed decision of the arbitrator upon
11 application of either party within 60 days of the arbitrator's decision unless the
12 Superior Court finds that the decision of the arbitrator was procured by corruption,
13 fraud or other misconduct that substantially prejudiced the rights of either party. The
14 Superior Court may correct any evident miscalculation of figures or obvious errors in
15 description or other matters of form not affecting the merits of the arbitrator's
16 decision.

17 If the arbitrator fails to render a decision within 60 days or other time period agreed
18 to by both parties, either party may appeal the original decision of the board of
19 assessment review to the Superior Court as provided in paragraph B. The appeal
20 must be filed no later than the time specified in Rule 80B of the Maine Rules of Civil
21 Procedure following the date by which the decision was due from the arbitrator.

22 **SUMMARY**

23 Current law allows a property owner in a municipality that has adopted a board of
24 assessment review to seek an abatement from that board. Either the municipality or the
25 property owner may appeal the decision of the board of assessment review to the Superior
26 Court.

27 This bill allows a property owner to submit the decision of the board of assessment
28 review to binding arbitration and specifies the procedure for selecting a neutral arbitrator
29 and participating in binding arbitration. A decision to submit to binding arbitration stays
30 a municipality's appeal to the Superior Court.