

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1613

H.P. 1135

House of Representatives, March 21, 2007

An Act To Reduce Property Taxes through a Municipal Tax Deferral Program

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GILES of Belfast.
Cosponsored by Senator SULLIVAN of York.

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

2 **Sec. 1. 36 MRSA c. 908-A** is enacted to read:

3 **CHAPTER 908-A**

4 **MUNICIPAL PROPERTY TAX DEFERRAL PROGRAM**

5 **§6271. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Base value.** “Base value” means 50% of the Consumer Price Index multiplied by
9 the sum of the value determined under paragraph A and any improvements as determined
10 under paragraph B.

11 **A.** The value of the homestead is the assessed value as of the later of the following:

12 (1) The assessed value as recorded in the tax records for the 1996 property tax
13 year of the municipality; and

14 (2) The last date of transfer of the title to the homestead, unless that transfer was
15 to a family member or trust.

16 **B.** The value of improvements to the property is the assessed value of those
17 improvements since the later of the 2 events specified in paragraph A.

18 For purposes of this subsection, “Consumer Price Index” has the same meaning as in
19 section 5402, subsection 1.

20 **2. Deferred property taxes.** “Deferred property taxes” means the property taxes
21 that would have been imposed on a homestead above the base value but for this chapter
22 multiplied by the lesser of:

23 **A.** Three years; and

24 **B.** The number of years since the last title transfer of the homestead to a person other
25 than a family member or trust.

26 **3. Family member.** “Family member” means a parent, spouse, child, sibling or
27 grandchild of the taxpayer.

28 **4. Homestead.** “Homestead” means the owner-occupied principal dwelling, either
29 real or personal property, owned by the taxpayer and up to 10 contiguous acres upon
30 which it is located. If the homestead is located in a multiunit building, the homestead is
31 the portion of the building actually used as the principal dwelling and its percentage of
32 the value of the common elements and of the value of the tax lot upon which it is built.
33 The percentage is the value of the unit consisting of the homestead compared to the total
34 value of the building exclusive of the common elements, if any.

1 **5. Municipal assessor.** “Municipal assessor” means mean a person chosen,
2 appointed or designated by a municipality or the officers of that municipality to collect
3 property taxes due a municipality or that person’s successor in office. For purposes of
4 this chapter, the municipal tax assessor for the unorganized territory is the State Tax
5 Assessor.

6 **6. Municipality.** “Municipality” means the municipality in which the homestead is
7 located.

8 **7. Tax-deferred property.** “Tax-deferred property” means the property upon which
9 taxes are deferred under this chapter.

10 **8. Taxes.** “Taxes” or “property taxes” means ad valorem taxes, assessments, fees
11 and charges entered on the assessment and tax roll.

12 **9. Taxpayer.** “Taxpayer” means an individual who has filed a claim for deferral
13 under this chapter or individuals who have jointly filed a claim for deferral under this
14 chapter.

15 **10. Trust.** “Trust” means an inter vivos trust that was created by and is revocable by
16 an individual.

17 **§6272. Deferral of tax on homestead; joint election; filing claim**

18 **1. Filing claim.** Subject to section 6273, an individual or 2 or more individuals
19 jointly may elect to defer the property taxes on their homestead by filing a claim for
20 deferral with the municipal assessor after January 1st but no later than April 1st of the
21 first year in which deferral is claimed. The municipal assessor shall determine if the
22 property is eligible for deferral. Claims from applicants may not be filed pursuant to this
23 chapter prior to January 1, 2008.

24 **2. Property tax deferral.** When the taxpayer elects to defer property taxes for any
25 year by filing a claim for deferral under subsection 1, that election has the effect of:

26 A. Deferring the payment of the property taxes levied on the assessed value of the
27 homestead above the base value for the municipal fiscal year beginning on or after
28 April 1st of that year;

29 B. Continuing deferral of the payment by the taxpayer of any property taxes deferred
30 under this chapter for previous years that have not become delinquent under section
31 6279; and

32 C. Continuing the deferral of the payment by the taxpayer of any future property
33 taxes deferred under this chapter for as long as the provisions of section 6273 are
34 met.

35 **3. Guardian compliance.** If a guardian or conservator has been appointed for an
36 individual otherwise qualified to obtain deferral of taxes under this chapter, the guardian
37 or conservator may act for that individual in complying with this chapter.

1 4. Trustee compliance. If a trustee of an inter vivos trust that was created by and is
2 revocable by an individual who is both the trustor and a beneficiary of the trust and who
3 is otherwise qualified to obtain a deferral of taxes under this chapter owns the fee simple
4 estate under a recorded instrument of sale, the trustee may act for the individual in
5 complying with this chapter.

6 5. Spouse not required to claim. This section may not be construed to require a
7 spouse of a taxpayer to file a claim jointly with the taxpayer even though the spouse may
8 be eligible to claim the deferral jointly with the taxpayer.

9 6. Appeal. Any person aggrieved by the denial of a claim for deferral of homestead
10 property taxes or disqualification from deferral of homestead property taxes may file an
11 appeal of the municipal assessor's determination, within 30 days of notification of denial
12 or disqualification by the municipal assessor, with the State Board of Property Tax
13 Review as provided in chapter 101, subchapter 2-A.

14 §6273. Property entitled to deferral

15 In order to qualify for tax deferral under this chapter, the property must meet all of
16 the following requirements when the claim is filed and continue to meet these
17 requirements as long as the payment of taxes by the taxpayer is deferred.

18 1. Claimant's homestead. The property must be the homestead of the taxpayer who
19 files the claim for deferral, except for a taxpayer required to be absent from the
20 homestead by reason of health.

21 2. Fee simple estate. The person claiming the deferral must, solely or together with
22 the person's spouse, own the fee simple estate or be purchasing the fee simple estate
23 under a recorded instrument of sale, or 2 or more persons must together own or be
24 purchasing the fee simple estate with rights of survivorship under a recorded instrument
25 of sale if all owners live in the homestead and if all owners apply for the deferral jointly.

26 3. No prohibitions. There may not be a prohibition to the deferral of property taxes
27 contained in a provision of federal law, rule or regulation applicable to a mortgage, trust
28 deed, land sale contract or conditional sale contract for which the homestead is security.

29 §6274. Claim forms; contents

30 1. Administration. A taxpayer's claim for deferral under this chapter must be in
31 writing on a form supplied by the municipality and must:

32 A. Describe the homestead; and

33 B. Have attached any documentary proof required by the municipal assessor to show
34 that the requirements of section 6273 have been met.

35 2. Statement verification. There must be annexed to the claim a statement verified
36 by a written declaration of the applicant making the claim to the effect that the statements
37 contained in the claim are true.

1 **§6275. Municipal liens against tax-deferred property**

2 **1. Lien.** The lien provided in section 552 must continue for purposes of protecting
3 the municipality's deferred tax interest in tax-deferred property.

4 A. When it is determined that one of the events set out in section 6278, subsection 1
5 or 2 has occurred and that a property is no longer eligible for property tax deferral
6 under this chapter, the municipal assessor shall send notice by certified mail to the
7 owner, or the owner's heirs or devisees, listing the total amount of deferred property
8 taxes and demanding payment on or before April 30th of the year following the tax
9 year in which the circumstances causing withdrawal from the provisions of this
10 chapter occur.

11 B. When the circumstance listed in section 6278, subsection 3 occurs, the payment of
12 deferred property taxes is due as a condition of the sale or transfer within 5 days of
13 that sale or transfer.

14 C. When the circumstance listed in section 6278, subsection 4 occurs, the amount of
15 deferred property taxes is due and payable 5 days before the date of removal of the
16 property from the State.

17 If the deferred property tax liability of a property has not been satisfied by the April 30th
18 demand date, the municipal assessor shall, within 30 days, record in the registry of deeds
19 in the county where the real estate is located a tax lien certificate signed by the municipal
20 assessor or bearing the assessor's facsimile signature, setting forth the total amount of
21 deferred property tax liability, a description of the real estate on which the tax was
22 deferred and an allegation that a tax lien is claimed on the real estate to secure payment of
23 the deferred property taxes, that a demand for payment of the deferred property taxes has
24 been made in accordance with this section and that the deferred property taxes remain
25 unpaid.

26 At the time of the recording of the tax lien certificate in the registry of deeds, the
27 municipal assessor shall send by certified mail, return receipt requested, to each record
28 holder of a mortgage on the real estate, to the holder's last known address, a true copy of
29 the tax lien certificate. The cost to be paid by the property owner, or the owner's heirs or
30 devisees, is the sum of the fees for recording and discharging of the lien as established by
31 Title 33, section 751, subsection 1, plus \$13. Upon redemption, the municipal assessor
32 shall prepare and record a discharge of the tax lien mortgage. The lien described in
33 section 552 is the basis of this tax lien mortgage procedure.

34 The filing of the tax lien certificate, provided for in this subsection, in the registry of
35 deeds creates a mortgage on the real estate to the municipality filing the tax lien and has
36 priority over all other mortgages, liens, attachments and encumbrances of any nature and
37 gives to that municipality all rights usually instant to a mortgage, except that the
38 mortgagee does not have any right of possession of the real estate until the right of
39 redemption expires.

40 Payments accepted during the redemption period may not interrupt or extend the
41 redemption period or in any way affect the foreclosure procedures.

1 2. Foreclosure. If the mortgage, including interest and costs, is not paid within 12
2 months of the date on which the certificate was filed in the registry of deeds, as provided
3 in this section, the mortgage is deemed foreclosed and the right of redemption expired.

4 3. Inventory. The filing of the certificate in the registry of deeds is sufficient notice
5 of the existence of the mortgage. Whenever a municipality acquires title to real estate
6 under this chapter, the municipal assessor shall cause an inventory to be made of all such
7 real estate. The inventory must contain a description of the real estate, amount of accrued
8 taxes by years and any information necessary to the administration and supervision of the
9 real estate.

10 4. Sale; municipal authorization. After authorization by the governing body of the
11 municipality, the municipal assessor shall:

12 A. Sell or convey any real property acquired pursuant to this section;

13 B. In all cases of sales, give public notice of the proposal to sell the real estate except
14 sales to former owners of the real estate;

15 C. Ask for competitive bids; and

16 D. Sell to the highest bidder with the right of rejecting all bids.

17 Sales of any such real estate may not be made by the municipal assessor except by
18 authorization of the governing body of the municipality.

19 The supervision, administration, utilization and vindication of the right of the
20 municipality in any such real estate is vested in the municipal assessor until the title is
21 conveyed or otherwise disposed of by the municipality.

22 5. Foreclosure receipts. Following the sale by the municipal assessor of real
23 property acquired through the tax lien certificate procedure outlined in this chapter, all
24 claims of the municipality evolving from the deferral of property taxes pursuant to this
25 chapter are satisfied, as well as any tax delinquencies relative to the property in question
26 in the municipality where located. The residual amount resulting from the sale of the
27 property is to be returned to the former owner or to the owner's heirs or devisees.

28 **§6276. Recording liens in county; recording constitutes notice of municipal lien**

29 1. Recording of liens. Each municipality in which there is tax-deferred property
30 shall cause to be recorded in the mortgage records of the county a list of tax-deferred
31 properties of that municipality. The list must contain a description of the property as
32 listed in the municipal valuation together with the name of the owner listed on the
33 valuation. The list must be corrected annually to reflect the addition or deletion of
34 deferred properties as well as partial payments received.

35 2. Notice of recording. The recording of the tax-deferred properties under
36 subsection 1 is notice that the municipality claims a lien against those properties in the
37 amount of the deferred property taxes together with any fees paid to the county register of
38 deeds in connection with the recording, release or satisfaction of the lien, even though the
39 amount of taxes or fees is not listed.

1 **§6277. Annual notice to taxpayer**

2 **1. Annual deferral notice.** On or before December 15th of each year, the
3 municipality shall send a notice to each taxpayer who has claimed deferral of property
4 taxes for the current tax year. The notice must:

5 A. Inform the taxpayer that the property taxes have been deferred in the current
6 year;

7 B. Show the total amount of deferred property taxes remaining unpaid since initial
8 application for deferral;

9 C. Inform the taxpayer that voluntary payment of the deferred property taxes may be
10 made at any time to the municipality; and

11 D. Contain any other information that the municipality considers necessary to
12 facilitate administration of this chapter, including, but not limited to, the right of the
13 taxpayer to submit any amount of money to reduce the total amount of the deferred
14 property taxes.

15 **2. Notice mailed.** The municipality shall give the notice required under subsection 1
16 by mail sent to the residence address of the taxpayer as shown in the claim for deferral or
17 as otherwise determined by the municipality to be the correct address of the taxpayer.

18 **§6278. Events requiring payment of deferred property tax**

19 Subject to section 6280, all deferred property taxes become payable as provided in
20 section 6279 when:

21 **1. Death of claimant.** The taxpayer who claimed deferment of collection of property
22 taxes on the homestead dies or, if there was more than one claimant, the survivor of the
23 taxpayers who originally claimed deferment of collection of property taxes under section
24 6272 dies;

25 **2. Claimant moves.** The tax-deferred property is no longer the homestead of the
26 taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent
27 from that tax-deferred property by reason of health;

28 **3. Sale of property.** The property with respect to which deferment of collection of
29 taxes is claimed is sold or a contract to sell is entered into or some person other than the
30 taxpayer or a family member of the taxpayer who claimed the deferment becomes the
31 owner of the property; or

32 **4. Removal of home.** The tax-deferred property, a mobile or floating home, is
33 moved out of the State.

34 **§6279. Time for payments; delinquencies**

35 Whenever any of the circumstances listed in section 6278 occurs:

36 **1. Continuation of assessment year.** The deferral of taxes for the assessment year
37 in which the circumstance occurs continues for that assessment year;

1 **2. Deferred property taxes due.** The amount of deferred property taxes is due and
2 payable to the municipality as a condition of the sale or transfer within 5 days of the sale
3 or transfer, except as provided in subsection 3 and section 6280;

4 **3. Out-of-state move.** Notwithstanding the provisions of subsection 2 and section
5 6282, when the circumstance listed in section 6278, subsection 4 occurs, the amount of
6 deferred taxes is due and payable 5 days before the date of removal of the property from
7 the State; and

8 **4. Delinquency.** If the amounts falling due as provided in this section are not paid on
9 the indicated due date or as extended under section 6282, those amounts are considered
10 delinquent as of that date and the property is subject to foreclosure as provided in section
11 6275.

12 **§6280. Election by spouse or other family member to continue tax deferral**

13 **1. Continuation by family member.** When one of the circumstances listed in
14 section 6278, subsections 1 to 3 occurs, the spouse or other family member who did not
15 or was not eligible to file a claim jointly with the taxpayer may continue the property in
16 its tax-deferred status by filing a claim within the time and in the manner provided under
17 section 6272 if the property is the homestead of the spouse or other family member of the
18 taxpayer and meets the requirements of section 6273, subsection 2.

19 **2. Filing extension.** Notwithstanding the requirement in section 6272 that a claim be
20 filed no later than April 1st, if the municipality determines that good and sufficient cause
21 exists for the failure of a spouse or other family member to file a claim under this section
22 on or before April 1st, the claim may be filed within 90 days after notice of taxes due and
23 payable under section 6279 is mailed or delivered by the department to the taxpayer,
24 spouse or other family member.

25 **§6281. Voluntary payment of deferred tax and interest**

26 **1. Payments.** All payments of deferred property taxes must be made to the
27 municipality.

28 **2. Taxes.** Subject to subsection 3, all or part of the deferred property taxes may at
29 any time be paid to the municipality by:

30 **A.** The taxpayer or the spouse of the taxpayer;

31 **B.** The next of kin of the taxpayer, heir at law of the taxpayer, family member other
32 than the spouse or any person having or claiming a legal or equitable interest in the
33 property; or

34 **C.** If the property is transferred to someone other than a family member or trust, the
35 buyer of the property.

36 **3. Notice of payment.** A person listed in subsection 2, paragraph B may make the
37 payments under this section only if an objection is not made by the taxpayer within 30
38 days after the municipality deposits in the mail notice to the taxpayer of the fact that the
39 payment has been tendered.

1 4. Payment application. Any payment made under this section must be applied
2 against the deferred property taxes. This payment does not affect the tax-deferred status
3 of the property. Unless otherwise provided by law, this payment does not give the person
4 paying the deferred property taxes any interest in the property or any claim against the
5 estate, in the absence of a valid agreement to the contrary.

6 5. Lien discharge. When the deferred property taxes are paid in full and the property
7 is no longer subject to deferral, the municipality shall prepare and record in the county in
8 which the property is located a lien discharge.

9 **§6282. Extension of time for payment upon death of claimant or spouse**

10 1. Payment extension. If the taxpayer who claimed a deferral under this chapter dies
11 or if a spouse or other family member who continued the deferral under section 6280
12 dies, the municipality may extend the time for payment of the deferred property taxes
13 becoming due and payable under section 6279, subsection 2 if:

- 14 A. The homestead property becomes property of an individual or individuals:
 - 15 (1) By inheritance or devise; or
 - 16 (2) If the individual or individuals are heirs or devisees in the course of
17 settlement of the estate;
- 18 B. An individual or individuals commence occupancy of the property as a principal
19 residence on or before August 15th of the calendar year following the calendar year
20 of death; or
- 21 C. An individual or individuals make application to the municipality for an extension
22 of time for payment of the deferred taxes and interest prior to August 15th of the
23 calendar year following the calendar year of death.

24 2. Extension terms. Subject to paragraphs A, B and C, an extension granted under
25 this section must be for a period not to exceed 5 years after August 15th of the calendar
26 year following the calendar year of death. The terms and conditions under which the
27 extension is granted must be in accordance with a written agreement entered into by the
28 municipality and the individual or individuals. An extension granted under this section
29 terminates immediately if:

- 30 A. The homestead property is sold or otherwise transferred by any party to the
31 extension agreement;
- 32 B. All of the heirs or devisees who are parties to the extension agreement cease to
33 occupy the property as a principal residence; or
- 34 C. The homestead property, a mobile or floating home, is moved out of the State.

35 3. Accrued interest. During the period of extension, and until paid, the deferred
36 property taxes accrue interest at the rate of 6% per annum. Interest may not accrue upon
37 interest.

38 For purposes of this section, "individual" does not include a family member.

1 **§6283. Limitations**

2 This chapter is not intended and may not be construed to:

3 1. Foreclosure. Prevent the collection, by foreclosure, of property taxes that become
4 a lien against tax-deferred property; or

5 2. Land provisions. Affect any provision of any mortgage, or other instrument
6 relating to land, requiring a person to pay property taxes.

7 **§6284. Deed or contract clauses preventing application for deferral prohibited;**
8 **clauses void**

9 After October 1, 2007, it is unlawful for any mortgage trust deed or land sale contract
10 to contain a clause or statement that prohibits the owner from applying for the benefits of
11 the deferral of homestead property taxes provided in this chapter. Any such clause or
12 statement in a mortgage trust deed or land sale contract executed after October 1, 2007 is
13 void.

14 **SUMMARY**

15 This bill creates a municipal homestead property tax deferral program to defer
16 indefinitely property taxes levied on the assessed value of a homestead above a certain
17 amount. The value of property for purposes of assessment is the sum of:

18 1. The assessed value of the homestead as recorded in the municipality as of the
19 1996 property tax year or the last date of transfer, whichever occurs later; and

20 2. The assessed value of any improvements made to the homestead since the last
21 assessed value.

22 The sum of the assessed value of the homestead and any improvements are multiplied
23 by 50% of the Consumer Price Index to achieve the base value of the property. Taxes
24 that would be assessed on the property above this base value are deferred until the sale or
25 transfer of the property to someone other than a family member or trust. When the
26 property is sold or transferred or is no longer the homestead of the owner or, in the case
27 of a trailer or houseboat, moved out of the State, the amount of the deferred property
28 taxes for the last 3 years or since the last transfer or sale, whichever period is shorter,
29 must be paid.

30 The program allows a spouse or other family member, such as a parent, sibling, child
31 or grandchild, to continue the deferral as long as the spouse or other family member uses
32 the property as a homestead. During the period of property tax deferral, the municipality
33 holds a lien on the property against the deferred amount of property taxes.