

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1463

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H.P. 1015

House of Representatives, April 15, 2009

### **An Act To Provide Equitable Property Tax Relief To Maintain Traditional Communities**

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PERCY of Phippsburg.

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

2 **PART A**

3 **Sec. A-1. 30-A MRSA §5250-I, sub-§16**, as enacted by PL 2003, c. 688, Pt. D,  
4 §2, is amended to read:

5 **16. Qualified business activity.** "Qualified business activity" means a business  
6 activity that is conducted within a Pine Tree Development Zone and is directly related to  
7 financial services, manufacturing, a natural resources support business as defined in  
8 section 5451, subsection 4 or a targeted technology business for which the business  
9 receives a certificate from the commissioner pursuant to section 5250-O.

10 **Sec. A-2. 30-A MRSA c. 215** is enacted to read:

11 **CHAPTER 215**

12 **NATURAL RESOURCES BUSINESS SUPPORT**

13 **§5451. Definitions**

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

16 **1. Department.** "Department" means the Department of Economic and Community  
17 Development.

18 **2. Natural resources business support arrangement.** "Natural resources business  
19 support arrangement" means an arrangement that meets requirements established by the  
20 department by rule under which:

21 A. The owner of a qualified natural resources business grants to a municipality a  
22 qualified easement; and

23 B. The municipality obligates itself to make natural resources business support  
24 payments.

25 **3. Natural resources business support payments.** "Natural resources business  
26 support payments" means annual payments by a municipality during the term of a  
27 qualified easement:

28 A. In an amount up to 100% of the annual property taxes assessed by that  
29 municipality against land and buildings subject to a qualified easement up to the fair  
30 market value of the easement; and

31 B. To the person against whom the property taxes are assessed.

32 **4. Natural resources support business.** "Natural resources support business"  
33 means a business whose existence in a community makes a substantial contribution to the  
34 operation of natural resources-based economic activities including agriculture, fishing,  
35 forestry and ecotourism.

1 5. Qualified easement. "Qualified easement" means an easement held by a  
2 municipality on qualified natural resources business land in that municipality that:

3 A. Is designed to ensure that no development other than development related to  
4 natural resources support occurs on the qualified natural resources business land; and

5 B. Is limited to a term of not less than 20 years.

6 6. Qualified natural resources business land. "Qualified natural resources  
7 business land" means land that is necessary for the operation of a natural resources  
8 business.

9 §5452. Program established

10 1. Program. In order to protect and support local natural resources businesses,  
11 preserve land for natural resources businesses and reduce the potential tax burdens from  
12 new development, a municipality may enter into natural resources business support  
13 arrangements with the owners of qualified natural resources business land.

14 A. A natural resources business support arrangement must be approved by majority  
15 vote of the municipality's legislative body.

16 B. Unless approved by a 2/3 vote of the municipality's legislative body, the  
17 municipality may not enter into natural resources business support arrangements:

18 (1) Affecting more than 3% of the total annual valuation of taxable land in the  
19 municipality; and

20 (2) Affecting more than 1% of the total annual valuation of taxable land in the  
21 municipality in any calendar year.

22 2. Effects of arrangement. A natural resources business support arrangement may  
23 not diminish the eligibility of qualified natural resources business land for participation in  
24 tax benefits under Title 36, chapter 105, subchapter 2-A or Title 36, chapter 105,  
25 subchapter 10 or for consideration under Title 5, Part 15-A by the Land for Maine's  
26 Future Board.

27 3. Nullification. A natural resources business support arrangement, once finally  
28 executed, is binding on the municipality. A municipality may not cease to make  
29 payments under the arrangement unless the land subject to the qualified easement is taken  
30 by eminent domain or state law otherwise authorizes the payments to cease. In the event  
31 that a municipality's obligation to make natural resources business support payments  
32 ceases, the natural resources business support arrangement and the related qualified  
33 easement are void and may not be given effect and the municipality shall provide notice  
34 of this fact to the owner of the qualified natural resources business land and record that  
35 notice with the appropriate registry of deeds.

36 **PART B**

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

38 **CHAPTER 908-A**

1                    **MUNICIPAL OPTION DEFERRAL OF HOMESTEAD PROPERTY TAXES**

2                    **§6281. Municipal option**

3                    A municipality may adopt municipal option deferral of homestead property taxes as  
4                    provided in this chapter by an ordinance that must be approved by the voters of the  
5                    municipality in the same manner as for the election of municipal officers. An ordinance  
6                    adopted under this chapter may include income-based limits on eligibility.

7                    **§6282. Definitions**

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

10                    **1. Homestead.** "Homestead" means the owner-occupied principal dwelling, either  
11                    real or personal property, owned by the taxpayer and up to 10 contiguous acres upon  
12                    which it is located. If the homestead is located in a multi-unit building, the homestead is  
13                    the portion of the building actually used as the principal dwelling and its percentage of  
14                    the value of the common element and of the value of the tax lot upon which it is built.  
15                    The percentage is the value of the unit consisting of the homestead compared to the total  
16                    value of the building exclusive of the common elements, if any.

17                    **2. Municipal income limit.** "Municipal income limit" means the amount, if any,  
18                    adopted by a municipal ordinance as the maximum household income under which a  
19                    homestead is eligible for deferral under this chapter.

20                    **3. Tax-deferred property.** "Tax-deferred property" means the property upon which  
21                    taxes are deferred under this chapter.

22                    **4. Taxes.** "Taxes" or "property taxes" means ad valorem taxes, assessments, fees  
23                    and charges entered on the assessment and tax roll.

24                    **5. Taxpayer.** "Taxpayer" means an individual who has filed a claim for deferral  
25                    under this chapter or individuals who have jointly filed a claim for deferral under this  
26                    chapter.

27                    **§6283. Deferral of tax on homestead; joint election; age requirement; filing claim**

28                    **1. Filing claim.** Subject to section 6284, an individual or 2 or more individuals  
29                    jointly may elect to defer the property taxes on a homestead by filing a claim for deferral  
30                    with the municipal assessor after January 1st but no later than April 1st of the first year in  
31                    which deferral is claimed if:

32                    A. The individual, or each individual in the case of 2 or more individuals filing a  
33                    claim jointly, is 65 years of age or older on April 1st of the year in which the claim is  
34                    filed;

35                    B. The individual or, in the case of 2 or more individuals filing a claim jointly, all the  
36                    individuals together have household income, as defined in section 6201, subsection 7,  
37                    of less than the municipal income limit for the calendar year immediately preceding  
38                    the calendar year in which the claim is filed; and

1 C. The municipality in which the homestead is located has adopted an ordinance  
2 under section 6281.

3 **2. Property tax deferral.** If a taxpayer is determined to be eligible to defer property  
4 taxes for any year by filing a claim for deferral under subsection 1, property tax deferral  
5 has the effect of:

6 A. Deferring the payment of the property taxes levied on the homestead for the  
7 municipal fiscal year beginning on or after April 1st of that year;

8 B. Continuing deferral of the payment by the taxpayer of any property taxes deferred  
9 under this chapter for previous years that have not become delinquent under section  
10 6291; and

11 C. Continuing the deferral of the payment by the taxpayer of any future property  
12 taxes for as long as the provisions of section 6284 are met.

13 **3. Appeal.** Any person aggrieved by the denial of a claim for deferral of homestead  
14 property taxes or disqualification from deferral of homestead property taxes may file an  
15 appeal with the State Board of Property Tax Review as provided in chapter 101,  
16 subchapter 2-A.

17 **§6284. Property entitled to deferral**

18 In order to qualify for tax deferral under this chapter, the property must meet all of  
19 the following requirements when the claim is filed and thereafter as long as the payment  
20 of taxes by the taxpayer is deferred.

21 **1. Claimant's homestead.** The property must be the homestead of the individual or  
22 individuals who file the claim for deferral, except for an individual required to be absent  
23 from the homestead by reason of health.

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

29 **3. No prohibitions.** There must be no prohibition to the deferral of property taxes  
30 contained in any provision of federal law, rule or regulation applicable to a mortgage,  
31 trust deed, land sale contract or conditional sale contract for which the homestead is  
32 security.

33 **§6285. Claim forms; contents**

34 **1. Administration.** A taxpayer may file a claim for deferral under this chapter in  
35 writing on a form supplied by the bureau and must:

36 A. Describe the homestead;

37 B. Establish eligibility for the deferral under the provisions of this chapter; and

1 C. Attach any information required by the bureau to show that the requirements of  
2 section 6284 have been met.

3 2. Statement verification. The claim must contain a statement verified by a written  
4 declaration of the applicant that the statements contained in the claim are true.

5 **§6286. State liens against tax-deferred property**

6 1. Lien. The lien provided in section 552 continues for purposes of protecting the  
7 municipality's deferred tax interest in tax-deferred property. When it is determined that  
8 one of the events set out in section 6290 has occurred and that a property is no longer  
9 eligible for property tax deferral under this chapter, the municipal assessor shall send  
10 notice by certified mail to the owner, or the owner's heirs or devisees, listing the total  
11 amount of deferred property taxes, including accrued interest and costs of all the years  
12 and demanding payment on or before April 30th of the year following the tax year in  
13 which the circumstances causing withdrawal from the provisions of this chapter occur.

14 When the circumstances listed in section 6290, subsection 4 occur, the amount of  
15 deferred taxes is due and payable 5 days before the date of removal of the property from  
16 the State.

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

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

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

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

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

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

6           4. Sale. The municipal assessor shall sell or shall convey any inventoried real estate,  
7 but shall in all cases of sales, except sales to former owners of the real estate, give public  
8 notice of the proposal to sell the real estate and shall ask for competitive bids and sell to  
9 the highest bidder with the right of rejecting all bids.

10           5. Foreclosure receipts. Following the sale by the municipal assessor of real  
11 property acquired through the tax lien certificate procedure outlined in this chapter, all  
12 claims of the municipality evolving from the homestead property tax deferral are  
13 satisfied, as well as any tax delinquencies relative to the property in question in the  
14 municipality where located. The residual amount resulting from the sale of the property  
15 is to be returned to the former owner or to the owner's heirs or devisees.

16           §6287. Listing of tax-deferred property; interest accrual

17           1. Tax-deferred property list. If eligibility for deferral of homestead property is  
18 established as provided in this chapter, the municipal assessor shall show on the current  
19 ad valorem assessment and tax roll which property is tax-deferred property by an entry  
20 clearly designating that property as tax-deferred property.

21           2. Interest. Interest shall accrue on the actual amount of taxes deferred by the  
22 municipality for the tax-deferred property at the rate of the higher of 6% per year or the  
23 municipal interest rate for unpaid taxes for the years for which taxes were deferred.

24           §6288. Recording liens in county; recording constitutes notice of municipal lien

25           1. Recording of liens. The municipal assessor shall record in the mortgage records  
26 of the county a list of tax-deferred properties of that municipality. The list must contain a  
27 description of the property as listed in the municipal valuation together with the name of  
28 the owner listed on the valuation. The list must be corrected annually to reflect the  
29 addition or deletion of tax-deferred properties as well as partial payments received.

30           2. Notice of recording. The recording of the tax-deferred properties under  
31 subsection 1 is notice that the municipality claims a lien against those properties in the  
32 amount of the deferred taxes plus interest together with any fees paid to the county  
33 register of deeds in connection with the recording, release or satisfaction of the lien, even  
34 though the amount of taxes, interest or fees is not listed.

35           §6289. Annual notice to taxpayer

36           1. Annual deferral notice. On or before December 15th of each year, the municipal  
37 assessor shall send a notice to each taxpayer who has claimed deferral of property taxes  
38 for the current tax year. The notice must:

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



1 B. Show the total amount of deferred taxes remaining unpaid since initial application  
2 for deferral and the interest accruing therein to November 15th of the current year;

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

5 D. Contain any other information that the municipal assessor considers necessary to  
6 facilitate administration of the homestead property tax deferral program under this  
7 chapter, including, but not limited to, the right of the taxpayer to submit any amount  
8 of money to reduce the total amount of the deferred taxes and interest.

9 2. Notice mailed. The municipal assessor shall give the notice required under  
10 subsection 1 by mail sent to the residence address of the taxpayer as shown in the claim  
11 for deferral or as otherwise determined by the municipal assessor to be the correct address  
12 of the taxpayer.

13 **§6290. Events requiring payment of deferred tax and interest**

14 Subject to section 6292, all property taxes deferred under this chapter, including  
15 accrued interest, become payable as provided in section 6291 when:

16 1. Death of claimant. The taxpayer who claimed deferral of collection of property  
17 taxes on the homestead dies or, if there was more than one claimant, the last survivor of  
18 the taxpayers who originally claimed deferral of collection of property taxes under  
19 section 6283 dies;

20 2. Sale of property. The property with respect to which deferral of collection of  
21 taxes is claimed is sold, a contract to sell is entered into or a person other than the  
22 taxpayer or taxpayers who claimed the deferral becomes the owner of the property.

23 3. Claimant moves. The tax-deferred property is no longer the homestead of the  
24 taxpayer or taxpayers who claimed the deferral, except in the case of a taxpayer required  
25 to be absent from that tax-deferred property by reason of health; or

26 4. Removal of home. The tax-deferred property is a mobile or floating home and is  
27 moved out of the State.

28 **§6291. Time for payments; delinquencies**

29 Whenever a circumstance listed under section 6290 occurs:

30 1. Continuation of assessment year. The deferral of taxes for the assessment year  
31 in which the circumstance occurs continues for that assessment year;

32 2. Deferred property taxes due. The amount of deferred property taxes, including  
33 accrued interest, for all years is due and payable to the bureau by April 30th of the year  
34 following the calendar year in which the circumstance occurs, except as provided in  
35 subsection 3 and section 6292;

36 3. Out-of-state move. Notwithstanding the provisions of subsection 2 and section  
37 6294, when the circumstance listed in section 6290, subsection 4 occurs, the amount of

1 deferred taxes is due and payable 5 days before the date of removal of the property from  
2 the State; and

3 4. Delinquency. If the amount falling due as provided in this section is not paid on  
4 the indicated due date or as extended under section 6294, that amount is deemed  
5 delinquent as of that date and the property is subject to foreclosure as provided in section  
6 6286.

7 **§6292. Election by spouse to continue tax deferral**

8 1. Continuation by spouse. When one of the circumstances listed in section 6290,  
9 subsections 1 to 3 occurs, the spouse who did not or was not eligible to file a claim jointly  
10 with the taxpayer may continue the property in its deferred tax status by filing a claim  
11 within the time and in the manner provided under section 6283 if:

12 A. The spouse of the taxpayer is or will be 65 years of age or older not later than 6  
13 months from the day one of the circumstances listed in section 6290, subsections 1 to  
14 3 occurs; and

15 B. The property is the homestead of the spouse of the taxpayer and meets the  
16 requirements of section 6284, subsection 2.

17 2. Continuation of deferral by spouse. A spouse who does not meet the age  
18 requirements of subsection 1, paragraph A but is otherwise qualified to continue the  
19 property in its tax-deferred status under subsection 1 may continue the deferral of  
20 property taxes deferred for previous years by filing a claim within the time and in the  
21 manner provided under section 6283. If a spouse eligible for and continuing the deferral  
22 of taxes previously deferred under this subsection becomes 65 years of age prior to April  
23 1st of any year, the spouse may elect to continue the deferral of taxes of previous years  
24 under this subsection and may elect to defer the current assessment year's taxes on the  
25 homestead by filing a claim within the time and in the manner provided under section  
26 6283. Thereafter, payment of the taxes levied on the homestead and deferred under this  
27 subsection and payment of taxes levied on the homestead in the current assessment year  
28 and in future years may be deferred in the manner provided in and subject to this chapter.

29 **§6293. Voluntary payment of deferred tax and interest**

30 1. Payments. All payments of deferred taxes must be made to the municipal tax  
31 collector.

32 2. Taxes and interest. Subject to subsection 3, all or part of the deferred taxes and  
33 accrued interest may at any time be paid to the municipal tax collector by:

34 A. The taxpayer or the spouse of the taxpayer; or

35 B. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer  
36 or any person having or claiming a legal or equitable interest in the property.

37 3. Notice of payment. A person listed in subsection 2, paragraph B may make the  
38 payments under this section only if no objection is made by the taxpayer within 30 days

1 after the municipal tax collector deposits in the mail notice to the taxpayer of the fact that  
2 the payment has been tendered.

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

8 **5. Lien discharge.** When the deferred taxes and accrued interest are paid in full  
9 under this section and the property is no longer subject to deferral, the municipal assessor  
10 shall prepare and record in the county in which the property is located a lien discharge.

11 **§6294. Extension of time for payment upon death of claimant or spouse**

12 **1. Payment extension.** If the taxpayer who claimed a homestead property tax  
13 deferral under this chapter dies or if a spouse who continued the deferral under section  
14 6292 dies, the municipal assessor may extend the time for payment of the deferred taxes  
15 and interest accruing with respect to the taxes becoming due and payable under section  
16 6291, subsection 2, if:

17 A. The homestead property becomes property of an individual or individuals:

18 (1) By inheritance or devise; or

19 (2) If the individual or individuals are heirs or devisees in the course of  
20 settlement of the estate;

21 B. An individual or individuals commence occupancy of the property as a principal  
22 residence on or before August 15th of the calendar year following the calendar year  
23 of death; or

24 C. An individual or individuals make application to the municipal assessor for an  
25 extension of time for payment of the deferred taxes and interest prior to August 15th  
26 of the calendar year following the calendar year of the death.

27 **2. Extension terms.** Subject to paragraph B, an extension granted under this section  
28 may not exceed 5 years after August 15th of the calendar year following the calendar year  
29 of the death. The terms and conditions under which the extension is granted must be in  
30 accordance with a written agreement entered into by the municipal assessor and the  
31 individual or individuals.

32 An extension granted under this section terminates immediately if:

33 A. The homestead property is sold or otherwise transferred by any party to the  
34 extension agreement;

35 B. All of the heirs or devisees who are parties to the extension agreement cease to  
36 occupy the property as a principal residence; or

37 C. The homestead property is a mobile or floating home and is moved out of the  
38 State.

