

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1295

H.P. 950

House of Representatives, March 24, 2011

An Act To Amend the Process of Resolving Property Tax Abatement Disputes

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative JOHNSON of Greenville.
Cosponsored by Representatives: FOSTER of Augusta, GILLWAY of Searsport, HARMON of
Palermo, WINTLE of Garland.

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

2 **Sec. 1. 36 MRSA §841, sub-§1**, as repealed and replaced by PL 1993, c. 133, §1,
3 is amended to read:

4 **1. Error or mistake.** The assessors, either upon written application filed within 185
5 days from commitment stating the grounds for an abatement or on their own initiative
6 within one year from commitment, may make such reasonable abatement as they consider
7 proper to correct any illegality, error or irregularity in assessment, ~~provided that~~ as long
8 as the taxpayer has complied with section 706.

9 The municipal officers, either upon written application filed after one year but within 3
10 years from commitment stating the grounds for an abatement or on their own initiative
11 within that time period, may make such reasonable abatement as they consider proper to
12 correct any illegality, error or irregularity in assessment, ~~provided as long as~~ the taxpayer
13 has complied with section 706. ~~The~~ Except as provided in section 842-A, the municipal
14 officers may not grant an abatement to correct an error in the valuation of property.

15 **Sec. 2. 36 MRSA §842**, as amended by PL 2001, c. 396, §16, is further amended
16 to read:

17 **§842. Notice of decision**

18 The assessors or municipal officers shall give to any person applying to them for an
19 abatement of taxes notice in writing of their decision upon the application within 10 days
20 after they take final action thereon. The notice of decision must state the specific reasons
21 for a denial of the abatement and that the applicant has 60 days from the date the notice is
22 received to appeal the decision or, if the request for an abatement is based on an error in
23 the valuation of the property, to obtain 2 appraisals as described in section 842-A. It must
24 also identify the board or agency designated by law to hear the appeal. If the assessors or
25 municipal officers, before whom an application in writing for the abatement of a tax is
26 pending, fail to give written notice of their decision within 60 days from the date of filing
27 of the application, the application is deemed to have been denied, and the applicant may
28 appeal as provided in sections 843 and 844, unless the applicant has in writing consented
29 to further delay. Denial in this manner is final action for the purposes of notification
30 under this section but failure to send notice of decision does not affect the applicant's
31 right of appeal. This section does not apply to applications for abatement made under
32 section 841, subsection 2.

33 **Sec. 3. 36 MRSA §842-A** is enacted to read:

34 **§842-A. Use of appraisals to prove value**

35 A person whose application for abatement has been denied pursuant to section 842,
36 when the abatement was sought because of an error in the valuation of the property, may,
37 instead of directly appealing the denial, provide alternative proof of valuation as
38 described in this section.

1 **1. Appraisals.** A person may obtain 2 appraisals of the property for which the
2 abatement is requested. Each appraisal must be performed by a real estate appraiser
3 licensed pursuant to Title 32, chapter 124.

4 **2. Sixty-day time limit.** Within 60 days after receipt of the notice of the decision or
5 after the application for abatement is deemed to have been denied pursuant to section
6 842, the person shall forward the appraisals under subsection 1 to the assessors or
7 municipal officers who considered the original application for abatement.

8 **3. Average of appraisals to prove value; appeal.** The assessors or municipal
9 officers shall either accept the average of the 2 appraisals performed pursuant to
10 subsection 1 for purposes of granting an application for abatement or file an appeal
11 pursuant to subsection 4.

12 **4. Appeal.** The decision of the assessors or municipal officers to not accept the
13 average of the appraisals must be appealed by the assessors or municipal officers
14 pursuant to section 843. An appeal brought pursuant to this subsection is limited to the
15 validity of the appraisals.

16 Nothing in this section precludes a person from appealing the original denial of the
17 application for abatement under section 842 without following the procedures described
18 in this section.

19 **Sec. 4. 36 MRSA §843, sub-§1,** as amended by PL 1995, c. 262, §4, is further
20 amended to read:

21 **1. Municipalities.** If a municipality has adopted a board of assessment review and
22 the assessors or the municipal officers refuse to make the abatement asked for, or if the
23 assessors or municipal officers reject the average of the appraisals performed pursuant to
24 section 842-A, subsection 1, the applicant may apply in writing to the board of
25 assessment review within 60 days after notice of the decision from which the appeal is
26 being taken or after the application is deemed to have been denied, and, if the board
27 thinks the applicant is over-assessed, the applicant is granted such reasonable abatement
28 as the board thinks proper. An appeal brought pursuant to section 842-A, subsection 3 is
29 limited to a determination of the validity of the appraisals. Except with regard to
30 nonresidential property or properties with an equalized municipal valuation of \$1,000,000
31 or greater either separately or in the aggregate, either party may appeal from the decision
32 of the board of assessment review directly to the Superior Court, in accordance with Rule
33 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to
34 give written notice of its decision within 60 days of the date the application is filed,
35 unless the applicant agrees in writing to further delay, the application is deemed denied
36 and the applicant may appeal to the Superior Court as if there had been a written denial.

37 **Sec. 5. 36 MRSA §843, sub-§2,** as amended by PL 2001, c. 396, §17, is further
38 amended to read:

39 **2. Primary assessing areas.** If a primary assessing area has adopted a board of
40 assessment review and the assessors or municipal officers refuse to make the abatement
41 asked for, or if the assessors or municipal officers reject the average of the appraisals

1 performed pursuant to section 842, subsection 1, the applicant may apply in writing to the
2 board of assessment review within 60 days after notice of the decision from which the
3 appeal is being taken or after the application is deemed to have been denied, and if the
4 board thinks the applicant is over-assessed, the applicant is granted such reasonable
5 abatement as the board thinks proper. An appeal brought pursuant to section 842-A,
6 subsection 3 is limited to a determination of the validity of the appraisals. Except with
7 regard to nonresidential property or properties with an equalized municipal valuation of
8 \$1,000,000 or greater, either separately or in the aggregate, either party may appeal the
9 decision of the board of assessment review directly to the Superior Court, in accordance
10 with the Maine Rules of Civil Procedure, Rule 80B. If the board of assessment review
11 fails to give written notice of its decision within 60 days of the date the application was
12 filed, unless the applicant agrees in writing to further delay, the application is deemed
13 denied and the applicant may appeal to the Superior Court as if there had been a written
14 denial.

15 **SUMMARY**

16 This bill amends the real property tax abatement process by:

17 1. Requiring the notice of decision of a denial of an application for abatement to
18 contain the specific reasons for the denial; and

19 2. Allowing a person whose abatement based on the valuation of property is denied
20 to obtain, prior to appealing the denial, 2 appraisals of the property for which the
21 abatement is requested and submit these as proof of value to the assessors or municipal
22 officers who denied the abatement application. The assessors or municipal officers may
23 either accept the average of the appraisals as proof of value and allow the abatement or
24 deny the abatement and file an appeal with the Superior Court or board of assessment
25 review; the scope of the appeal is limited to the validity of the appraisals.