

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 electronic originals
(may include minor formatting differences from printed original)



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 719

H.P. 491

House of Representatives, February 26, 2013

**An Act To Ensure Access to Information in the Property Tax
Abatement and Appeals Process**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative JOHNSON of Greenville.

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

2 **Sec. 1. 36 MRSA §842**, as amended by PL 2001, c. 396, §16, is further amended
3 to read:

4 **§842. Notice of decision**

5 The assessors or municipal officers shall give to any person applying to them for an
6 abatement of taxes notice in writing of their decision upon the application within 10 days
7 after they take final action thereon. If the application for abatement is denied, the notice
8 of the decision must state the reason for the denial. The notice of decision must state that
9 the applicant has 60 days from the date the notice is received to appeal the decision. It
10 must also identify the board or agency designated by law to hear the appeal. If the
11 assessors or municipal officers, before whom an application in writing for the abatement
12 of a tax is pending, fail to give written notice of their decision within 60 days from the
13 date of filing of the application, the application is deemed to have been ~~denied, and the~~
14 ~~applicant may appeal as provided in sections 843 and 844~~ approved, unless the applicant
15 has in writing consented to further delay. ~~Denial in this manner is final action for the~~
16 ~~purposes of notification under this section but failure to send notice of decision does not~~
17 ~~affect the applicant's right of appeal.~~ This section does not apply to applications for
18 abatement made under section 841, subsection 2.

19 **Sec. 2. 36 MRSA §843, sub-§§1 and 1-A**, as amended by PL 1995, c. 262, §4,
20 are further 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, the
23 applicant may apply in writing to the board of assessment review within 60 days after
24 notice of the decision from which the appeal is being taken or after the application is
25 deemed to have been denied, and, if the board thinks the applicant is over-assessed, the
26 applicant is granted such reasonable abatement as the board thinks proper. If the board of
27 assessment review does not grant the abatement requested by the applicant, the board
28 shall notify the applicant in writing of the reason for not fully granting the request.
29 Except with regard to nonresidential property or properties with an equalized municipal
30 valuation of \$1,000,000 or greater either separately or in the aggregate, either party may
31 appeal from the decision of the board of assessment review directly to the Superior Court,
32 in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of
33 assessment review fails to give written notice of its decision within 60 days of the date
34 the application is filed, unless the applicant agrees in writing to further delay, the
35 application is deemed ~~denied and the applicant may appeal to Superior Court as if there~~
36 ~~had been a written denial~~ to be approved.

37 **1-A. Nonresidential property of \$1,000,000 or greater.** With regard to
38 nonresidential property or properties with an equalized municipal valuation of \$1,000,000
39 or greater either separately or in the aggregate, either party may appeal the decision of the
40 local board of assessment review or the primary assessing area board of assessment
41 review to the State Board of Property Tax Review within 60 days after notice of the
42 decision from which the appeal is taken or after the application is deemed to be ~~denied~~

1 approved, as provided in subsections 1 and 2. The board shall hold a hearing de novo. If
2 the board thinks that the applicant is over-assessed, it shall grant such reasonable
3 abatement as the board thinks proper. If the board of assessment review does not grant
4 the abatement requested by the applicant, the board shall notify the applicant in writing of
5 the reason for not fully granting the request. For the purposes of this section,
6 "nonresidential property" means property that is used primarily for commercial, industrial
7 or business purposes, excluding unimproved land that is not associated with a
8 commercial, industrial or business use.

9 **Sec. 3. 36 MRSA §843, sub-§2**, as amended by PL 2001, c. 396, §17, is further
10 amended to read:

11 **2. Primary assessing areas.** If a primary assessing area has adopted a board of
12 assessment review and the assessors or municipal officers refuse to make the abatement
13 asked for, the applicant may apply in writing to the board of assessment review within 60
14 days after notice of the decision from which the appeal is being taken or after the
15 application is deemed to have been denied, and if the board thinks the applicant is over-
16 assessed, the applicant is granted such reasonable abatement as the board thinks proper.
17 If the board of assessment review does not grant the abatement requested by the
18 applicant, the board shall notify the applicant in writing of the reason for not fully
19 granting the request. Except with regard to nonresidential property or properties with an
20 equalized municipal valuation of \$1,000,000 or greater, either separately or in the
21 aggregate, either party may appeal the decision of the board of assessment review directly
22 to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B.
23 If the board of assessment review fails to give written notice of its decision within 60
24 days of the date the application was filed, unless the applicant agrees in writing to further
25 delay, the application is deemed ~~denied and the applicant may appeal to the Superior~~
26 ~~Court as if there had been a written denial~~ to be approved.

27 **Sec. 4. 36 MRSA §844, sub-§1**, as amended by PL 2001, c. 396, §18, is further
28 amended to read:

29 **1. Municipalities without board of assessment review.** Except when the
30 municipality or primary assessing area has adopted a board of assessment review, if the
31 assessors or the municipal officers refuse to make the abatement asked for, the applicant
32 may apply to the county commissioners within 60 days after notice of the decisions from
33 which the appeal is being taken ~~or within 60 days after the application is deemed to have~~
34 ~~been denied.~~ If the commissioners think that the applicant is over-assessed, the applicant
35 is granted such reasonable abatement as the commissioners think proper. If the
36 commissioners do not grant the abatement requested by the applicant, the commissioners
37 shall notify the applicant in writing of the reason for not fully granting the request. If the
38 applicant has paid the tax, the applicant is reimbursed out of the municipal treasury, with
39 costs in either case. If the applicant fails, the commissioners shall allow costs to the
40 municipality, taxed as in a civil action in the Superior Court, and issue their warrant of
41 distress against the applicant for collection of the amount due the municipality. The
42 commissioners may require the assessors or municipal clerk to produce the valuation by
43 which the assessment was made or a copy of it. Either party may appeal from the
44 decision of the county commissioners to the Superior Court, in accordance with the

1 Maine Rules of Civil Procedure, Rule 80B. If the county commissioners fail to give
2 written notice of their decision within 60 days of the date the application is filed, unless
3 the applicant agrees in writing to further delay, the application is deemed ~~denied and the~~
4 ~~applicant may appeal to the Superior Court as if there had been a written denial to be~~
5 approved.

6 **Sec. 5. 36 MRSA §844, sub-§2,** as amended by PL 2011, c. 548, §13, is further
7 amended to read:

8 **2. Nonresidential property of \$1,000,000 or greater.** Notwithstanding subsection
9 1, the applicant may appeal the decision of the assessors or the municipal officers on a
10 request for abatement with respect to nonresidential property or properties having an
11 equalized municipal valuation of \$1,000,000 or greater, either separately or in the
12 aggregate, to the State Board of Property Tax Review within 60 days after notice of the
13 decision from which the appeal is taken ~~or after the application is deemed to be denied.~~ If
14 the State Board of Property Tax Review determines that the applicant is over-assessed, it
15 shall grant such reasonable abatement as it determines proper. If the State Board of
16 Property Tax Review does not grant the abatement requested by the applicant, the board
17 shall notify the applicant in writing of the reason for not fully granting the request. For
18 the purposes of this subsection, "nonresidential property" means property that is used
19 primarily for commercial, industrial or business purposes, excluding unimproved land
20 that is not associated with a commercial, industrial or business use.

21 **Sec. 6. 36 MRSA §844-M, sub-§5,** as enacted by PL 1995, c. 262, §9, is
22 amended to read:

23 **5. Testimony; record; notice.** The transcript or tape recording of testimony, if such
24 a transcript or tape recording has been prepared by the board, and the exhibits, with all
25 papers and requests filed in the proceeding, constitute the record. Decisions become a
26 part of the record and must include a statement of findings and conclusions, as well as the
27 reasons or basis for those findings and conclusions, upon the material issues of fact, law
28 or discretion presented and the appropriate order, relief or denial of relief. If the board
29 determines that the applicant is over-assessed, it shall grant such reasonable abatement as
30 the board determines proper. If the board does not grant the abatement requested by the
31 applicant, the board shall notify the applicant in writing of the reason for not fully
32 granting the request. Notice of a decision must be mailed or hand delivered to all parties
33 and the county commissioners within 10 days of the board's decision.

34 **Sec. 7. 36 MRSA §844-N, sub-§5,** as enacted by PL 1995, c. 262, §9, is amended
35 to read:

36 **5. Testimony; record; notice.** The transcript or tape recording of testimony, if such
37 a transcript or tape recording has been prepared by the board, and the exhibits, with all
38 papers and requests filed in the proceeding, constitute the record. Decisions become a
39 part of the record and must include a statement of findings and conclusions, as well as the
40 reasons or basis for those findings and conclusions, upon the material issues of fact, law
41 or discretion presented and the appropriate order, relief or denial of relief. If the board
42 determines that the applicant is over-assessed, it shall grant such reasonable abatement as
43 the board determines proper. If the board does not grant the abatement requested by the

1 applicant, the board shall notify the applicant in writing of the reason for not fully
2 granting the request. Notice of a decision must be mailed or hand delivered to all parties
3 and the municipal officers or the executive committee, where applicable, within 10 days
4 of the board's decision.

5

SUMMARY

6 This bill provides that a property taxpayer applying for or appealing an abatement of
7 property taxes is entitled to notice in writing stating the reason the applicant's request was
8 not fully granted. The bill also provides that if a decision on a request for abatement is
9 not made within the required time period the request is deemed to be approved.