

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

SECOND REGULAR SESSION-2014

Legislative Document

No. 1715

H.P. 1226

House of Representatives, January 8, 2014

An Act To Provide Property Tax Relief to Persons Receiving Long-term Care

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HARLOW of Portland.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** property taxes continue to rise throughout the State; and

4 **Whereas,** the cost of long-term care, either in a nursing home or in the home, also
5 continues to rise; and

6 **Whereas,** the combination of these 2 costs is causing families to lose their homes;
7 and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

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

13 **Sec. 1. 22 MRSA §50,** as enacted by PL 2009, c. 279, §1, is amended to read:

14 **§50. Planning for long-term care services**

15 By January 15, 2012 and every 4 years thereafter, the department, after input from
16 interested parties, shall report to the joint standing committee of the Legislature having
17 jurisdiction over health and human services matters on the current allocation of resources
18 for long-term care and the goals for allocation of those resources during the next 4 years.
19 The report must be based on current and projected demographic data, current and
20 projected consumer needs and recent or anticipated changes in methods of delivery of
21 long-term care services and must include any action taken by the department to further
22 these goals and any recommendations for action by the Legislature. Beginning January
23 15, 2015 and annually thereafter, the department shall publish on the department's
24 publicly accessible website a report showing the average cost of nursing home care to a
25 consumer for each county in this State.

26 **Sec. 2. 36 MRSA §654-B** is enacted to read:

27 **§654-B. Estates of persons receiving long-term care**

28 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
29 following terms have the following meanings.

30 A. "Co-owner" means a person, including a spouse of a person in a nursing home,
31 who owns residential real estate in joint tenancy with a person in a nursing home.

32 B. "Home health care services" means those health care services rendered in a
33 person's place of residence from another person licensed by the Department of Health
34 and Human Services to provide home health care services only if:

35 (1) Hospitalization or confinement in a skilled nursing facility as defined in Title
36 XVIII of the United States Social Security Act, 42 United States Code, Section

1 1395 et seq. would otherwise have been required if home health care services
2 were not provided; and

3 (2) The treatment plan covering the home health care services is established as
4 prescribed in writing by a physician.

5 C. "Nursing home" means any facility located in this State that is licensed by the
6 Department of Health and Human Services as a skilled nursing facility as defined in
7 Title XVIII of the United States Social Security Act, 42 United States Code, Section
8 1395 et seq. or intermediate care facility.

9 D. "Person in a nursing home" means a person who is in a nursing home without any
10 reasonable expectation that the person's condition for which the person is in a nursing
11 home will improve enough to allow the person to return to residence in that person's
12 residential real estate.

13 **2. Exemption of property of person in nursing home.** The residential real estate
14 of a person in a nursing home is exempt from taxation as long as the residential real estate
15 is occupied by the co-owner.

16 **3. Exemption of property of person receiving home health care services.** The
17 residential real estate of a person who is receiving home health care services is exempt
18 from taxation, subject to the following:

19 A. The person is receiving the home health care services in that person's residence,
20 which is the residential real estate receiving the exemption;

21 B. The person receiving the home health care services is an owner of the residential
22 real estate receiving the exemption; and

23 C. The amount of the exemption is a percentage of the property taxes assessed on the
24 residential real estate, which is determined as follows:

25 (1) The numerator is the actual out-of-pocket cost of the home health care
26 services to the person applying for the exemption for the calendar year
27 immediately prior to the property tax year for which the exemption is claimed;
28 and

29 (2) The denominator is the average cost of nursing home care in the county in
30 which the residential real estate is located for the year that the exemption is
31 requested, as determined by the Department of Health and Human Services
32 pursuant to Title 22, section 50.

33 The result is multiplied by the property taxes assessed on the residential real estate
34 for the property tax year for which the exemption is claimed. If the amount of the
35 numerator is greater than or equal to the amount of the denominator, the property is
36 100% exempt from taxation.

37 **4. Exemption available to residents only.** An exemption may not be granted to any
38 person under this section unless the person is a resident of this State.

39 **5. Application.** A person who desires to secure exemption under this section shall
40 make written application and file written proof of entitlement on or before the first day of

1 April in the year in which the exemption is first requested with the assessors of the place
2 in which the person resides. Notwithstanding Title 1, chapter 13, an application and proof
3 of entitlement filed pursuant to this subsection is confidential and may not be made
4 available for public inspection. The assessors shall thereafter grant the exemption to any
5 person who is so qualified and remains a resident of that place or until the assessors are
6 notified of a reason or desire for discontinuance.

7 **6. Reimbursement.** A municipality granting exemptions under this section is
8 entitled to reimbursement from the State of 90% of that portion of the property tax
9 revenue lost as a result of the exemptions that exceeds 3% of the total municipal property
10 tax levy upon submission of proof in a form satisfactory to the State Tax Assessor.
11 Exemptions granted under this section that are reimbursable pursuant to section 661 are
12 not eligible for reimbursement under this subsection.

13 **7. Fraudulent conveyance.** Property conveyed to any person for the purpose of
14 obtaining exemption from taxation under this section is not eligible for exemption. The
15 obtaining of exemption by means of fraudulent conveyance is punishable by a fine equal
16 to 2 times the amount of taxes evaded, but not less than \$100.

17 **8. Value of exemption.** In determining the local assessed value of the exemption, the
18 assessor shall multiply the amount of the exemption by the ratio of current just value
19 upon which the assessment is based as furnished in the assessor's annual return to the
20 State Tax Assessor.

21 **Sec. 3. Application.** This Act applies to property tax years beginning on or after
22 April 1, 2014.

23 **Emergency clause.** In view of the emergency cited in the preamble, this
24 legislation takes effect when approved.

25 SUMMARY

26 This bill provides a property tax exemption for the owner of residential property in
27 this State who is in a nursing home or who is receiving home health care services. If the
28 person is in a nursing home with no reasonable expectation that the person will return to
29 that person's residence and the residence is owned in joint tenancy with another person
30 who is occupying the residence, the property tax exemption is 100%. If the person is
31 receiving home health care services, the amount of the property tax exemption is obtained
32 by dividing the actual costs of the home health care services incurred by the person
33 applying for the exemption by the average cost of nursing home care in the county in
34 which the residential real estate is located and multiplying the result by the property taxes
35 assessed on that residential real estate. The exemption may not exceed 100%.