

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1638

S.P. 522

In Senate, May 5, 2021

**An Act To Help Seniors and Certain Persons with Disabilities
Remain in Their Homes by Providing for the Deferral of Property
Taxes**

Received by the Secretary of the Senate on May 3, 2021. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.
Cosponsored by Representative FAY of Raymond and
Senators: CLAXTON of Androscoggin, CURRY of Waldo, HICKMAN of Kennebec,
MAXMIN of Lincoln, RAFFERTY of York.

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

2 **Sec. 1. 36 MRSA §5219-KK, sub-§1, ¶A-1**, as enacted by PL 2017, c. 474, Pt.
3 B, §13, is amended to read:

4 A-1. For tax years beginning on or after January 1, 2018, "benefit base" means property
5 taxes paid by a resident individual during the tax year on the resident individual's
6 homestead in this State or rent constituting property taxes paid by the resident
7 individual or the bureau pursuant to chapter 908 on behalf of a resident individual
8 during the tax year on a homestead in the State not exceeding the following amounts:

9 (1) For persons filing as single individuals, \$2,050;

10 (2) For persons filing as heads of households that can claim the federal child tax
11 credit pursuant to the Code, Section 24 for no more than one qualifying child or
12 dependent or for persons filing joint returns, \$2,650; and

13 (3) For persons filing as heads of households that can claim the federal child tax
14 credit pursuant to the Code, Section 24 for more than one qualifying child or
15 dependent or for persons filing joint returns that can claim the federal child tax
16 credit pursuant to the Code, Section 24 for at least one qualifying child or
17 dependent, \$3,250.

18 **Sec. 2. 36 MRSA §6250, sub-§3**, as enacted by PL 1989, c. 534, Pt. C, §1, is
19 amended to read:

20 **3. Homestead.** "Homestead" means the owner-occupied principal dwelling, ~~either~~
21 ~~real or personal property~~, owned by the taxpayer and up to 10 contiguous acres upon which
22 it is located. If the homestead is located in a multi-unit building, the homestead is the
23 portion of the building actually used as the principal dwelling and its percentage of the
24 value of the common elements and of the value of the tax lot upon which it is built. The
25 percentage is the value of the unit consisting of the homestead compared to the total value
26 of the building exclusive of the common elements, if any. "Homestead" includes the
27 taxpayer-occupied principal dwelling and up to 10 contiguous acres upon which it is
28 located that is held in a revocable living trust for the benefit of the taxpayer. "Homestead"
29 does not include an owner-occupied principal dwelling located on land not owned by the
30 taxpayer.

31 **Sec. 3. 36 MRSA §6250, sub-§3-A** is enacted to read:

32 **3-A. Liquid asset.** "Liquid asset" means something of value available to an individual
33 that can be converted to cash in 3 months or less and includes:

34 A. Bank accounts;

35 B. Certificates of deposit;

36 C. Money market and mutual funds;

37 D. Life insurance policies;

38 E. Stocks and bonds; and

39 F. Lump-sum payments and inheritances.

40 **Sec. 4. 36 MRSA §6250, sub-§3-B** is enacted to read:

1 3-B. Municipality. "Municipality" means a city, town, plantation or the unorganized
2 territory.

3 **Sec. 5. 36 MRSA §6251**, as amended by PL 1993, c. 395, §31, is further amended
4 to read:

5 **§6251. Deferral of tax on homestead; joint election; age requirement; filing claim**

6 **1. Filing claim.** Subject to section 6252, ~~an individual or 2 or more individuals jointly~~
7 ~~a taxpayer may elect apply~~ to defer the property taxes on ~~their~~ the taxpayer's homestead by
8 filing a claim for deferral with the municipal assessor after January 1st but no later than
9 April 1st of the first year in which deferral is claimed if:

10 A. ~~The individual or each individual, in the case of 2 or more individuals taxpayer~~
11 ~~filing a claim jointly, is 65 years of age or older or is unable to continue employment~~
12 ~~by reason of physical disability on April 1st of the year in which the claim is filed; and~~

13 B. ~~The individual or, in the case of 2 or more individuals filing a claim jointly, all the~~
14 ~~individuals together have household taxpayer has~~ income, as defined in section ~~6201~~
15 ~~5219-KK, subsection 7 1, paragraph D, of less than \$32,000~~ \$40,000 for the calendar
16 year immediately preceding the calendar year in which the claim is filed;

17 C. The taxpayer, if an individual, has liquid assets of less than \$50,000 or, in the case
18 of 2 or more individuals filing a claim jointly, all the individuals together have liquid
19 assets of less than \$75,000; and

20 D. The taxpayer's homestead receives a homestead exemption under chapter 105,
21 subchapter 4-B.

22 The municipal assessor shall forward each claim filed under this subsection to the bureau
23 within 30 days of receipt and the bureau shall determine if the property is eligible for
24 deferral. Claims must be filed on a form approved by the State Tax Assessor and must
25 include all information requested by the State Tax Assessor, including without limitation
26 the taxpayer's and the taxpayer's direct heirs' contact information. Income and liquid assets
27 of all individual owners of a homestead must be included in an application for deferral.

28 ~~Claims from new applicants may not be filed pursuant to this chapter prior to January 1,~~
29 ~~1994. For purposes of this section, "new applicants" means any person or persons that have~~
30 ~~not filed claims prior to April 1, 1991.~~

31 **2. Property tax deferral.** ~~When the~~ If a taxpayer elects is determined to be eligible
32 to defer property taxes for any year by filing a claim for deferral under subsection 1, it shall
33 have has the effect of:

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

36 B. Continuing deferral of the payment by the taxpayer of any property taxes deferred
37 under this chapter for previous years that have not become delinquent under section
38 6260; and

39 C. Continuing the deferral of the payment by the taxpayer of any future property taxes
40 for as long as the provisions of section 6252 are met or the taxpayer withdraws from
41 the deferral of future property taxes under this chapter by notifying the bureau as
42 provided in section 6258.

1 **3. Guardian compliance.** If a guardian or conservator or agent under a power of
2 attorney or pursuant to a protective arrangement or any other lawful order has been
3 appointed for an individual a taxpayer otherwise qualified to obtain deferral of taxes under
4 this chapter, the guardian or conservator or agent may act for that individual taxpayer in
5 complying with this chapter.

6 **4. Trustee compliance.** If a trustee of an a revocable inter vivos trust which, if that
7 trust was created by and is revocable by an individual, a taxpayer who is both the trustor
8 and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes
9 under this chapter, owns the fee simple estate under a recorded instrument of sale, the
10 trustee may act for the individual taxpayer in complying with this chapter.

11 **5. Spouse not required to claim.** Nothing in this section may be construed to require
12 a spouse of an individual to file a claim jointly with the individual even though the spouse
13 may be eligible to claim the deferral jointly with the individual.

14 **6. Appeal.** Any person taxpayer aggrieved by the denial of a claim for deferral of
15 homestead property taxes or disqualification from deferral of homestead property taxes
16 may file an appeal of the State Tax Assessor's determination, within 30 days of notification
17 of denial or disqualification by the State Tax Assessor, with the State Board of Property
18 Tax Review as provided in chapter 101, subchapter H-A 2-A. When the State Tax Assessor
19 disagrees with the municipal valuation of a property subject to deferral, the abatement and
20 appeals process under chapter 105, subchapter 8 applies.

21 **Sec. 6. 36 MRSA §6252, sub-§2**, as enacted by PL 1989, c. 534, Pt. C, §1, is
22 amended to read:

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

29 **Sec. 7. 36 MRSA §6252, sub-§4** is enacted to read:

30 **4. No duplicate deferral.** The property is not receiving a deferral of taxes under
31 chapter 908-A.

32 **Sec. 8. 36 MRSA §6252, sub-§5** is enacted to read:

33 **5. No municipal lien.** The property does not have an existing municipal lien against
34 it.

35 **Sec. 9. 36 MRSA §6253**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to
36 read:

37 **§6253. Claim forms; contents**

38 **1. Administration.** A taxpayer's claim for deferral under this chapter shall must be in
39 writing on a form supplied by the bureau and shall must:

40 A. Describe the homestead;

41 B. ~~Recite facts~~ Provide information establishing the eligibility for the deferral under
42 ~~the provisions of this chapter, including facts~~ information that establish establishes that

1 the household liquid assets and the income, as defined in section 6201 5219-KK,
2 subsection 7 1, paragraph D, of the individual, or, in the case of 2 or more individuals
3 claiming the deferral jointly, was are less than \$32,000 the limits set by section 6251,
4 subsection 1 for the calendar year immediately preceding the calendar year in which
5 the claim is filed; and

6 C. ~~Have attached~~ Contain any documentary proof information required by the bureau
7 to show that the requirements of section 6252 have been met.

8 **2. Statement verification.** ~~There shall be annexed to the~~ The claim must contain a
9 statement verified by a written declaration of the ~~applicant~~ taxpayer making the claim to
10 ~~the effect~~ that the statements contained in the claim are true.

11 **Sec. 10. 36 MRSA §6254, sub-§1**, as amended by PL 2007, c. 695, Pt. A, §45, is
12 further amended to read:

13 **1. Lien.** The lien provided in section 552 must continue for purposes of protecting the
14 State's deferred tax interest in tax deferred property. When it is determined that one of the
15 events set out in section 6259 has occurred and that a property is no longer eligible for
16 property tax deferral under this chapter, the State Tax Assessor shall send notice by
17 certified mail to the ~~owner~~ taxpayer, or the ~~owner's~~ taxpayer's heirs or devisees, listing the
18 total amount of deferred property taxes, including accrued interest and costs of all the years
19 and demanding payment on or before April 30th of the year following the tax year in which
20 the circumstances causing withdrawal from the provisions of this chapter occur.

21 When the circumstances listed in section 6259, subsection 4 occur, the amount of deferred
22 taxes is due and payable 5 days before the date of removal of the property from the State.

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

31 At the time of the recording of the tax lien certificate in the registry of deeds, the State Tax
32 Assessor shall send by certified mail, return receipt requested, to each record holder of a
33 mortgage on the real estate, to the holder's last known address, a true copy of the tax lien
34 certificate. The cost to be paid by the ~~property owner~~ taxpayer, or the ~~owner's~~ taxpayer's
35 heirs or devisees, is the sum of the fees for recording and discharging of the lien as
36 established by Title 33, section 751, plus \$13. Upon redemption, the State Tax Assessor
37 shall prepare and record a discharge of the tax lien mortgage. The lien described in section
38 552 is the basis of this tax lien mortgage procedure.

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

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

3 **Sec. 11. 36 MRSA §6254, sub-§4** is enacted to read:

4 **4. Dangerous buildings.** The State Tax Assessor may request that the municipal
5 officers, in the case of a municipality, or the county commissioners, in the case of the
6 unorganized territory in their county, investigate any homestead subject to deferral and
7 make determinations whether the homestead is a dangerous building pursuant to Title 17,
8 chapter 91, subchapter 4. If eligible expenses pursuant to Title 17, section 2853 are incurred
9 by a municipality or the county in the case of the unorganized territory, the State Tax
10 Assessor shall reimburse those eligible expenses from funds in the Senior Property Tax
11 Deferral Revolving Account under section 6266.

12 **Sec. 12. 36 MRSA §6255, sub-§3**, as enacted by PL 1989, c. 534, Pt. C, §1, is
13 amended to read:

14 **3. Interest.** ~~Interest shall accrue~~ accrues on the actual amount of taxes payments
15 advanced to the municipality for the tax-deferred property at the rate of 6% per annum
16 pursuant to section 186.

17 **Sec. 13. 36 MRSA §6257**, as amended by PL 1991, c. 528, Pt. DD, §1 and affected
18 by Pt. RRR and amended by c. 591, Pt. DD, §1 and c. 622, Pt. CC, §1, is further amended
19 to read:

20 **§6257. ~~Municipal tax collector to receive~~ Payment of amount equivalent to deferred**
21 **taxes from by the State**

22 **1. Payment of deferred taxes.** Within 30 days of the receipt of information from a
23 municipal tax collector concerning the amount of deferred property taxes in the respective
24 municipality, the State Tax Assessor shall certify that amount to the Treasurer of the State
25 who shall make payment to the municipality on or before the 15th day of the following
26 month. Payments made for deferred property taxes in the unorganized territory must be
27 made to the Unorganized Territory Education and Services Fund established in section
28 1605.

29 **~~1-A. Prorated payment of deferred taxes.~~** ~~The State Tax Assessor is authorized to~~
30 ~~prorate payments to municipalities for claims filed pursuant to this chapter if the amount~~
31 ~~available in the Senior Property Tax Deferral Revolving Account established in section~~
32 ~~6266 in any fiscal year is insufficient to make full payments to all municipalities. If the~~
33 ~~applicant for deferred taxes can not pay the difference due to the municipality, the~~
34 ~~municipality that does not receive the full amount of deferred property taxes may cause a~~
35 ~~tax lien certificate to be filed in the county registry of deeds for the amount not received.~~

36 **~~1-B. Reimbursement to taxpayers.~~** ~~The State Tax Assessor is authorized to~~
37 ~~reimburse taxpayers who qualified under this chapter and who have paid property taxes~~
38 ~~that would have otherwise been deferred but for the prorating of benefits as allowed in~~
39 ~~subsection 1-A.~~

40 **2. Accounts maintained.** The bureau shall maintain accounts for each deferred
41 property and ~~shall accrue interest only on the actual amount of taxes advanced to the~~
42 ~~municipality.~~

1 **Sec. 14. 36 MRSA §6258, sub-§1, ¶D**, as enacted by PL 1989, c. 534, Pt. C, §1,
2 is amended to read:

3 D. Contain any other information that the bureau considers necessary to facilitate
4 administration of the homestead deferral program including, but not limited to, the right
5 of the taxpayer to submit any amount of money to reduce the total amount of the
6 deferred taxes and interest and the right of the taxpayer to withdraw from the deferral
7 of future property taxes under this chapter by notifying the bureau by any method that
8 the bureau may prescribe.

9 **Sec. 15. 36 MRSA §6261, sub-§2**, as enacted by PL 1989, c. 534, Pt. C, §1, is
10 amended to read:

11 **2. Continuation of deferral by spouse.** A spouse who does not meet the age
12 requirements of subsection 1, paragraph A or the physical disability requirement of section
13 6251, subsection 1, paragraph A, but is otherwise qualified to continue the property in its
14 tax-deferred status under subsection 1 may continue the deferral of property taxes deferred
15 for previous years by filing a claim within the time and in the manner provided under
16 section 6251. If a spouse eligible for and continuing the deferral of taxes previously
17 deferred under this subsection becomes 65 years of age or meets the physical disability
18 requirement of section 6251, subsection 1, paragraph A prior to April 1st of any year, the
19 spouse may elect to continue the deferral of previous years' taxes deferred under this
20 subsection and may elect to defer the current assessment year's taxes on the homestead by
21 filing a claim within the time and in the manner provided under section 6251. Thereafter,
22 payment of the taxes levied on the homestead and deferred under this subsection and
23 payment of taxes levied on the homestead in the current assessment year and in future years
24 may be deferred in the manner provided in and subject to this chapter.

25 **Sec. 16. 36 MRSA §6262, sub-§2**, as enacted by PL 1989, c. 534, Pt. C, §1, is
26 amended to read:

27 **2. Taxes and interest.** Subject to subsection 3, all or part of the deferred taxes and
28 accrued interest may at any time be paid to the bureau by:

- 29 A. The taxpayer or the spouse of the taxpayer; ~~or~~
30 B. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or
31 any person having or claiming a legal or equitable interest in the property; ~~or~~
32 C. Any other person or organization making a payment as a gift to the taxpayer.

33 **Sec. 17. 36 MRSA §6262, sub-§3**, as enacted by PL 1989, c. 534, Pt. C, §1, is
34 amended to read:

35 **3. Notice of payment.** A person listed in subsection 2, paragraph B; or C may make
36 the payments only if no objection is made by the taxpayer within 30 days after the bureau
37 deposits in the mail notice to the taxpayer of the fact that the payment has been tendered.

38 **Sec. 18. 36 MRSA §6266**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to
39 read:

40 **§6266. Senior Property Tax Deferral Revolving Account; sources; uses**

41 **1. Revolving account.** This section establishes in the State Treasury the Senior
42 Property Tax Deferral Revolving Account, referred to in this section as "the revolving

1 account," to be used by the bureau for the purpose of making the payments to municipal
2 tax collectors and to the Unorganized Territory Education and Services Fund, established
3 in section 1605, of property taxes deferred for tax years beginning on or after April 1, 1990
4 2022, as required by section 6257, reimbursements, as required under section 6254,
5 subsection 4, and repayment of transfers pursuant to subsection 5.

6 **1-A. Transfer from Property Tax Relief Fund for Maine Residents.** If there is not
7 sufficient money in the revolving account to make the payments required under subsection
8 1, the State Tax Assessor shall notify the Treasurer of State of the amount necessary to
9 make the required payments and the Treasurer of State shall transfer that amount from the
10 Property Tax Relief Fund for Maine Residents, established in Title 5, section 1518-A,
11 subsection 1, to the revolving account.

12 **2. Advancement of funds.** The funds necessary to make payments under subsection
13 1 shall must be advanced to the bureau from time to time as necessary by the Treasurer of
14 State as an appropriation from the General Fund a transfer under subsection 1-A and, if
15 necessary, under subsection 4.

16 **3. Payments credited.** All sums of money received by the bureau under this chapter
17 as repayments of deferred property taxes including the interest accrued under section 6255,
18 subsection 3, shall, upon receipt, must be credited to the revolving account and shall must
19 be available for the purposes of subsection 1 and subsection 5.

20 **4. Appropriation Additional transfer request.** If, following the transfer by the
21 Treasurer of State required by subsection 1-A, there is not sufficient money in the revolving
22 account to make the payments required by subsection 1, the State Tax Assessor shall
23 request an appropriation a transfer from the General Housing Opportunities for Maine
24 Fund, established in Title 30-A, section 4853, which together with the money in the
25 revolving account will provide an amount sufficient to make the required payments.

26 **5. General Fund reimbursement Reimbursement of funds.** When the bureau
27 determines that funds in sufficient amounts are available in the revolving account, the
28 bureau shall repay to the General Fund Repayment of the amounts advanced as
29 appropriations under transferred to the revolving account pursuant to subsections 1-A and
30 4 must be done in accordance with this subsection 2, plus accrued interest.

31 A. When the bureau determines that funds in sufficient amounts are available in the
32 revolving account, the bureau shall repay to the Housing Opportunities for Maine Fund,
33 established in Title 30-A, section 4853, the amounts advanced as transfers under
34 subsection 1-A, plus accrued interest.

35 B. When the bureau determines that funds in sufficient amounts are available in the
36 revolving account after the transfer to the Housing Opportunities for Maine Fund,
37 established in Title 30-A, section 4853, pursuant to paragraph A, the bureau shall repay
38 to the Property Tax Relief Fund for Maine Residents, established in Title 5, section
39 1518-A, subsection 1, the amounts advanced as transfers under subsection 4, plus
40 accrued interest.

41 **Sec. 19. 36 MRSA §6267,** as enacted by PL 1993, c. 707, Pt. G, §10, is repealed.

42 **Sec. 20. Application.** This Act applies to property taxes based on the status of
43 property on or after April 1, 2022.

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SUMMARY

This bill reinstates the State's property tax deferral program, which was in effect for applications filed before April 1, 1991. The bill modifies the program to include households with at least one individual who is 65 years of age or older or who is unable to continue employment due to disability and to surviving spouses who are unable to continue employment due to disability and provides that income must be less than \$40,000. The bill also changes the rate of accrual of interest on deferred property taxes from 6% to the prime rate published in the Wall Street Journal rounded up to the next whole percent minus one percentage point. The bill adds a maximum liquid asset standard for eligibility of property owners and provides that property may not be subject to deferral under both the state deferral program and a municipal deferral program. The bill also facilitates the administration of the deferral of property taxes for seniors and certain persons with disabilities, including expanding the authority of guardians to include an agent under a power of attorney or pursuant to a protective arrangement or any other lawful order.

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The bill requires transfers from the Property Tax Relief Fund for Maine Residents in case there are not sufficient funds to pay for the property tax deferral program; current law requires transfers from the General Fund. In the event that there are not sufficient funds in the Property Tax Relief Fund for Maine Residents, the bill requires that additional transfers be made from the Housing Opportunities for Maine Fund to cover the shortfall. This bill requires repayment of those transfers, with interest, first to the Housing Opportunities for Maine Fund and then to the Property Tax Relief Fund when there are sufficient funds available for those reimbursements.