

MAINE STATE LEGISLATURE

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N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 1147

H. P. 1918

House of Representatives, April 11, 1941.

Reported by Report "C" from the Committee on Taxation. On motion of Mr. Morrison of Winter Harbor tabled pending acceptance of any of the three reports "A," "B," or "C." 1,000 copies of new drafts "A" and "B" ordered printed.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

**AN ACT Providing for Funds for Old Age Assistance and Homestead
Taxation Relief, and Imposing a Gross Sales Tax Therefor.**

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

TITLE I

Tax on Sale of Tangible Personal Property

Tax on sale of tangible personal property. 1. Imposition of tax.

a. For the privilege of selling tangible personal property at retail, and services, as hereafter defined, in this state, every vendor shall pay a tax of 2% upon the receipts therefrom, except as hereinafter provided.

b. The burden of proof that the sale of tangible personal property was not a sale at retail shall be upon the vendor, unless such vendor shall have taken from the vendee a certificate signed by and bearing the name and address of the vendee to the effect that the property was purchased for resale. For the purpose of the proper administration of this title, and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts from the sale of tangible personal property at retail and services are subject to the tax until the contrary is established.

c. In any case in which tangible personal property or services are sold under a contract made prior to January 1st, 1941, which specifies and fixes the sale price and such sale is taxable under this title, the vendor may add the tax imposed by this title and collect it from the vendee.

2. **Minimum tax.** If a vendor has receipts of not more than \$100 for any month for which a return is required to be made, he shall not be required to pay a tax under this title.

3. **Exemptions.** The following are exempted from the tax imposed herein:

a. Sales of internal combustion engine fuels, upon which a tax is imposed by this state.

b. Sales of telephone, telegraph and transportation services; sales of electricity and all other sales of goods or services to the extent to which the same may be subject to a tax upon the gross receipts therefrom under any other law of this state.

c. Sales of tangible personal property or services by or to the United States, the state of Maine, and its counties, municipalities and any other political subdivisions thereof, and sales of whatever character upon which this state is, by virtue of the constitution of the United States or otherwise, without power to impose a tax.

d. Sales of all goods for use in manufacturing or producing, including seeds, fertilizers, insecticides and fungicides, feeds and other materials purchased by farmers and used in producing farm products for sale, but not including goods or materials that are used in building or repairing buildings.

e. Sales of tangible personal property upon which the state now imposes and collects a special tax, whether in the form of a license tax, excise tax, stamp tax, or otherwise.

f. Sales of all articles of tangible personal property brought into the state of Maine by a nonresident individual thereof for his or her use or enjoyment while within the state.

4. **Records.** Every vendor selling tangible personal property at retail or services in this state and subject to the tax imposed by this title shall keep such records of receipts and in such form as the state tax assessor may by regulation require. Such records shall be offered for inspection and examination at any time upon demand by the state tax assessor or his duly authorized agent or employee, and shall be preserved for a period of

3 years, except that the state tax assessor may consent to their destruction within that period, or may require that they be kept longer.

5. Returns to be filed. Every vendor selling tangible personal property at retail, or services in this state, and subject to the tax imposed by this title shall file with the state tax assessor on or before the 15th day of the succeeding month a return of his receipts for each preceding month after the effective date of this act; with such return shall be accompanied a remittance to state treasurer for the full amount of the tax due for said period less 5% thereof, which is to be retained by the taxpayer for his expenses in making and filing such returns. The forms for such return shall be prescribed by and furnished by the state tax assessor and shall contain such information as he may deem necessary for the proper administration of this title.

6. Installment sales and cancelled sales, how reported. a. Installment sales. The tax assessor may provide by regulation that receipts from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due, in which event such receipts shall become subject to the tax at such times and not at the time when the contract of sale was entered into.

b. Cancelled sales. The state tax assessor shall provide by regulation for the exclusion from receipts of amounts representing sales where the contract of sale has been cancelled, or the goods returned, or the purchase price or charge for the same or any part thereof, is proven uncollectible, or in case the tax has been paid upon such receipts, for a credit for the amount of the tax against future tax liability of the vendor.

7. Payment of tax. At the time of filing a return of receipts each vendor shall pay to the state tax assessor the tax imposed by this title for the period covered by such return. All taxes for the period for which a return is required to be filed shall be due and payable on the date established for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed shows the correct amount of tax due. If any vendor shall make sales of tangible personal property at retail or services while his license is suspended, the tax prescribed by this title shall nevertheless be imposed and payable with respect to such sales, but the payment of such tax shall not afford relief from any of the penalties prescribed by this title for selling while a license is suspended.

Sec. 7-A. Tokens authorized. It is hereby declared that the intent of

the legislature is that the tax imposed herein shall be collected from purchasers in so far as possible or practicable, and all vendors of tangible personal property shall collect from purchasers the tax imposed herein as far as possible and practicable. To assist in such collection, the state tax assessor is hereby authorized and directed to cause to be made tokens in the denomination of $1/10$ of 1% of \$1 and $5/10$ of 1% of \$1 in such quantity as he deems necessary to carry out the provisions of this title. Any person, firm or corporation selling tangible personal property at retail shall purchase from the state tax assessor or any agent of his, duly authorized by him to sell such tokens, (and the state tax assessor is hereby authorized to appoint such agents as he deems advisable to sell such tokens), such tokens as may be necessary to permit the customers of such person, firm or corporation to pay the tax herein imposed, and the said persons, firms, and corporations are hereby authorized to sell such tokens at their face value.

In case the tax herein imposed is such that it requires the payment of a sum or an additional sum of less than 1c, the tokens herein authorized may be used as payment thereof. Tokens authorized under this section shall not be accepted by the state in payment of taxes due hereunder, but all such tokens shall be redeemed at their face value by the state tax assessor or any of his agents duly authorized for that purpose.

Sec. 7-B. Penalty. Any person, firm or corporation who falsely or fraudulently makes, alters or counterfeits any token prescribed by the state tax assessor under the provisions of this act, or who knowingly or wilfully utters, passes or tenders as true any such false, altered, forged or counterfeited token shall be punished by imprisonment for a term of not less than 1 year, nor more than 10 years.

8. Licenses. a. Every vendor engaged in the sale of tangible personal property at retail or services in this state on the effective date of this title shall be deemed to have a license so to do.

b. Every vendor engaging in the sale of tangible personal property at retail or services in this state after the effective date of this act shall first apply to and procure from the state tax assessor a license so to do, giving the name and address of the vendor and the address of the place or places where such sales are to be made. With each such application there shall be paid the sum of \$10 to be credited against the tax found to be due under this title.

c. The state tax assessor shall have power to suspend the license of any vendor who shall violate or fail to comply with any provision of this title

or any rule or regulation adopted by him pursuant to this title and shall also have power to restore licenses after such suspension. A license shall be suspended in case a return or corrected return is not filed as in this title provided, or in case any tax under any assessment made by the state tax assessor, or penalty thereon, shall not be paid within 30 days from the giving of notice of such assessment, unless proceedings instituted to contest the tax are pending, or the state tax assessor shall have granted an extension of time for the filing of the return or the payment of the tax, but any such extension shall not have the effect of changing the due date of the tax.

d. The filing of delinquent returns or the payment of delinquent taxes and penalties shall have the effect of restoring the license.

e. Any vendor who shall sell tangible personal property at retail or services in this state after his license shall have been suspended, or without procuring a license as provided in subsection b of this section, and the officers of any corporation which shall so sell, shall be guilty of a misdemeanor.

f. The license to sell tangible personal property at retail or services provided for in this title shall be in addition to any and all other licenses which may be required by law.

9. Definitions. For the purposes of this title and unless the context clearly indicates a different meaning:

a. The word "sale" means any exchange, barter or transfer in any manner or by any means whatsoever for a consideration;

b. The term "retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale;

c. The word "consumer" means any person who buys tangible personal property or services for consumption by himself or others, without subsequent resale, trade or exchange for profit;

d. The word "vendor" means any individual, partnership, association or corporation who sells tangible personal property or services to a consumer;

e. The term "tangible personal property" means all chattels, movables, including boats and vessels, merchandise and stock in trade, furniture and personal effects, live stock, vehicles, farming implements, movable machinery and equipment, but such words do not include any structure, improvement, machinery equipment or fixtures attached to and forming a part of real property.

f. The word "services" means :

1. Any beneficial act performed or rendered in connection with and incident to the sale of tangible personal property by a vendor for or on behalf of a consumer, for a consideration ;

2. Admission to theaters, recreation parks and any other places of recreation and amusement ;

3. The use of rooms and suites in hotels and lodging houses ;

4. The cleaning, dyeing or repairing of clothing and household or other furnishings and equipment by laundries, dry cleaning and dyeing establishments ;

5. The use of billiard halls, pool tables and other similar equipment for recreation, whether payment for such use is evidenced by tickets of admission or by the amounts paid for each separate act of use of said halls, tables or other equipment.

g. The word "receipts" means the total amount of the sale of tangible personal property sold at retail in this state, valued in money, whether received in money, credits, or property of any kind or nature, or otherwise, and also any amount for which credit is allowed by the seller to the purchaser, without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest or discount paid or any other expense whatsoever. It shall also include the total amount of the consideration received for performing services taxable under this title, valued in money, whether received in money or otherwise.

TITLE II

Use Tax

Sec. 1. Use tax. I. Definitions. The following words, terms and phrases when used in this section shall have the meanings ascribed to them in this subsection :

1. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsection shall mean and include ((a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be

sold ultimately at retail, (b) fuel which is consumed in creating power, heat or steam for processing or for generating electric current, (c) industrial materials and equipment, which are not readily obtainable in Maine, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

2. "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

3. "Purchase price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included.

4. "Tangible personal property" means tangible goods, wares, and merchandise, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

5. "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this section; provided, however, that when in the opinion of the state tax assessor it is necessary for the efficient administration of this section to regard any salesmen, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the state tax assessor may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this section.

6. "Retailer maintaining a place of business in this state" or any like term, shall mean and include any retailer having or maintaining within this state directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state pursuant to law.

7. "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

8. "Taxpayer" shall mean any person within the meaning of subsection 7 hereof who is subject to a tax imposed by this section whether acting for himself or as a fiduciary.

II. Imposition of tax. An excise tax is hereby imposed on the use in this state of tangible personal property purchased on or after the effective date of this section for use in this state, at the rate of 2% of the purchase price of such property. Said tax is hereby imposed upon every person using such property within this state until such tax has been paid directly to the state tax assessor or to a retailer, as hereinafter provided.

III. Exemptions. The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this section:

1. Tangible personal property, on the sale of which at retail a tax is imposed by title I, and any amendments made or which may hereafter be made thereto.

2. Tangible personal property used (a) in interstate transportation or interstate commerce, or (b) for the performance of a building or construction contract executed prior to the effective date of this section.

3. Tangible personal property upon which the state now imposes and collects a special tax, whether in the form of a license tax, excise tax, stamp tax, or otherwise.

4. All articles of tangible personal property brought into the state of Maine by a nonresident individual thereof for his or her use or enjoyment while within the state.

5. Tangible personal property not readily obtainable in Maine and used in the operation of street railways.

6. Tangible personal property, the sales of which at retail are exempted from the sales tax imposed by title I.

IV. Evidence of use. For the purpose of the proper administration of this section and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this state shall be prima facie evidence that such tangible personal property was sold for use in this state.

V. How collected. The tax herein imposed shall be collected in the following manner:

1. The tax upon the use of all tangible personal property which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the state tax assessor shall authorize pursuant to subsection VII, shall be collected by such retailer and remitted to the state tax assessor, pursuant to the provisions of subsections VI to X, inclusive.

2. The tax upon the use of all tangible personal property not paid pursuant to subsection 1 hereof shall be paid to the state tax assessor directly by any person using such property within this state, pursuant to the provisions of subsection XI.

VI. Collection by retailer. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of subsection III, shall at the time of making such sales, whether within or without the state collect the tax imposed by subsections I to XX from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax assessor, if the state tax assessor shall, by regulation, require such receipt. Each such retailer shall require such receipt. Each such retailer shall list with the state tax assessor the name and address of all his agents operating in this state and the location of any and all his distribution or sales houses or offices or other places of business in this state.

VII. Foreign retailers. The state tax assessor may, in his discretion, upon application authorize the collection of the tax, herein imposed, by any retailer not maintaining a place of business within this state who, to the satisfaction of the said assessor furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax in such manner, and subject to such regulations and agreements as the said assessor shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. Such authority and permit may be canceled when, at any time, the said assessor considers the security inadequate, or that such tax can more effectively be collected from the person using such property in this state.

VIII. Absorbing tax. It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this sec-

tion will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. The state tax assessor shall have the power to adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax. Any person violating any of the provisions of this subsection within this state shall be guilty of a misdemeanor and subject to the penalties provided in subsection XV.

IX. Tax as debt. The tax herein required to be collected by any retailer pursuant to subsections VII and VIII, and any tax collected by any retailer pursuant to said subsections, shall constitute a debt owed by the retailer to this state.

X. Payment to state tax assessor. Each retailer required or authorized, pursuant to subsections VII or VIII, to collect the tax herein imposed, shall be required to pay to the state tax assessor the amount of such tax, on or before the 20th day of the month next succeeding each quarterly period, the first such quarterly period being the period commencing on the 1st day of October, 1941, and ending on the 31st day of December, 1941. At such time, each such retailer shall file with the state tax assessor a return for the preceding quarterly period in such form as may be prescribed by the said assessor showing the sales price of any or all tangible personal property sold by the retailer during such preceding quarterly period, the use of which is subject to the tax imposed by this section and such other information as the said assessor may deem necessary for the proper administration of this section. The return shall be accompanied by a remittance of the amount of such tax, for the period covered by the return, provided that where such tangible personal property is sold under a conditional sales contract, or under any other form of sale where the payment of the principal sum, or a part thereof, is extended over a period longer than 60 days from the date of the sale thereof, the retailer may collect and remit each quarterly period that portion of the tax equal to 2% of that portion of the purchase price actually received during such quarterly period. The state tax assessor, if he deems it necessary in order to insure payment to the state of the amount of such tax, may in any or all cases require returns and payments of such amount to be made for other than quarterly periods. The said assessor may, upon request and a proper showing of the necessity therefor, grant an extension of time not to exceed

30 days for making any return and payment. Returns shall be signed by the retailer or his duly authorized agent and must be certified by him to be correct.

XI. Liability of user. Any person who uses any property upon which the tax herein imposed has not been paid, either to a retailer or direct to the state tax assessor as herein provided, shall be liable therefor, and shall on or before the 20th day of the month next succeeding each quarterly period pay the tax herein imposed upon all such property used by him during the preceding quarterly period in such manner and accompanied by such returns as the state tax assessor shall prescribe. All of the provisions of subsection X with reference to such returns and payments shall be applicable to the returns and payments herein required.

XII. Bond to secure payment. The state tax assessor may, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this section, authorize any person subject to such tax, and any retailer required or authorized to collect such tax pursuant to the provisions of subsections VII and VIII, to file with it a bond issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the state tax assessor may fix, to secure the payment of any tax, amount, and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the state tax assessor in such amount as it may prescribe, may be deposited with it, which securities shall be sold by the said assessor at public or private sale, without notice to the depositor thereof, if it becomes necessary to do so in order to recover any tax and/or penalties due. Upon any such sale, the surplus, if any, above the amounts due under this section shall be returned to the person who deposited the securities.

XIII. Determination by assessor. If any return required by this section is not filed, or if any return when filed is incorrect or insufficient, and the maker or person from whom it is due fails to file a corrected or sufficient return within 20 days after the same is required by notice from the state tax assessor, the said assessor shall have the power to determine the amount due from such information as he may be able to obtain, and if necessary may estimate the tax on the basis of external indices, such as the number of employees of the person concerned, rentals paid by him, his stock on hand, and/or other factors. The state tax assessor shall give notice of such determination to the person liable for the tax. Such deter-

mination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the state tax assessor for a hearing or unless the state tax assessor of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the state tax assessor shall give notice of his decision to the person liable for the tax.

XIV. Appeals. An appeal may be taken by the taxpayer to the superior court of the county in which he resides, or in which his principal place of business is located, within 60 days after he shall have received notice from the state tax assessor of his determination as provided for in subsection XIII.

The appeal shall be taken by a written notice to the state tax assessor and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the clerk of said court, and docketed as other cases, with the taxpayer as plaintiff and the state tax assessor as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from, and in no case shall the bond be less than \$50, conditioned that the plaintiff shall perform the orders of the court.

The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the state tax assessor. In such appeal, the burden of proof shall be upon the taxpayer. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the state tax assessor who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the state tax assessor to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

XV. Failure to pay; penalties. Any person failing to file a return or corrected return or to pay any tax and/or amount required to be paid by this section within the time required by this section, shall be subject to a penalty of 5% of the amount due, plus 1% of such amount for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax or amount became due; but the state tax assessor, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the state tax assessor and disposed of in the same manner as other receipts under this section.

Unpaid penalties may be enforced in the same manner as the tax imposed by this section. The certificate of the said assessor to the effect that a tax and/or amount required to be paid by this section has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this section, shall be prima facie evidence thereof.

XVI. Fraud. Any person required to make, render, sign or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, and/or amount required to be paid by this section, shall be punished by a fine of not less than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment, in the discretion of the court.

XVII. Penalty. Any retailer or other person failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or other data required by the state tax assessor shall be punished by a fine of not more than \$100 for each offense, or by imprisonment for not more than 30 days or by both such fine and imprisonment, in the discretion of the court.

XVIII. Books; examination. Every retailer required or authorized to collect taxes imposed by this section and every person using in this state tangible personal property purchased on or after October 1, 1941, shall keep such records, receipts, invoices, and other pertinent papers as the state tax assessor shall require, in such form as the said assessor shall require. The said assessor or any of his duly authorized agents is hereby authorized to examine the books, papers, records and equipment of any person either selling tangible personal property or liable for the tax imposed by this section, and to investigate the character of the business of any such person in order to certify the accuracy of any return made, or if no return was made by such person, to ascertain and determine the amount due under the provisions of this section. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice when the said assessor shall deem it advisable and shall so order.

XIX. Revoking permits. Whenever any retailer maintaining a place of business in this state, or authorized to collect the tax herein imposed pursuant to subsection VIII, fails to comply with any of the provisions of this section or any orders, rules, or regulations of the state tax assessor prescribed and adopted under this section, the said assessor may, upon

notice and hearing as hereinafter provided, by order revoke the permit, if any, issued to such retailer under the provisions of law, or if such retailer is a corporation authorized to do business in this state under the provisions of law, may certify to the secretary of state a copy of an order finding that such retailer has failed to comply with certain specified provisions, orders, rules or regulations. The secretary of state shall, upon receipt of such certified copy, revoke the permit authorizing said corporation to do business in this state, and shall issue a new permit only when such corporation shall have obtained from the state tax assessor an order finding that such corporation has complied with its obligations under this section. No order authorized in this section shall be made until the retailer is given an opportunity to be heard and to show cause why such order should not be made, and he shall be given 10 days' notice of the time, place, and purpose of such hearing.

XX. Deposit of revenue. All revenues derived under the operation of this section shall be paid into the "Homestead Fund".

Sec. 2. Taxation in another state. If any article of tangible personal property has already been subjected to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax upon the sale or use was computed. If such tax imposed in such other state is 2% or more, then no tax shall be due on such articles.

TITLE III

Homestead Exemptions

Sec. 1. Homesteads exempted from taxation; definitions; procedure. Every person who has the legal or beneficial title in equity to real property in the state of Maine, including vendees in possession under bona fide contracts to purchase when the instruments by and under which such title is claimed are properly recorded in the registry of deeds in the county in which said real property lies; and who resides thereon and in good faith makes the same his or her permanent home shall be entitled to make a claim for an exemption from all taxation, except for special assessments for benefits, up to the assessed valuation of \$2000 on said real property. The right to claim such exemption shall extend to widows and widowers who have such title, or who reside on said property by virtue of dower or by right of descent or who have an estate therein limited in time by deed,

will, jointure or settlement, or otherwise, and to widowers and other single persons who make their home upon property to which they have the legal or equitable beneficial title. The title herein referred to may be held by the entireties, jointly or in common with others, and said exemption may be apportioned among such of the owners as shall reside thereon as their respective interests shall appear, but no claim for such exemption of more than \$2000 shall be allowed to any one person or on any single parcel of real property, nor shall the amount of the claim for exemption allowed any person exceed the proportionate assessed valuation based upon the interest owned by such person.

Provided, however, that if the revenue derived from the tax imposed in titles I and II is not sufficient to reimburse the various cities and towns for the revenue that would be lost by them through granting these claims for exemption, this exemption shall be for that portion of the exempted amount claimed and granted which the total amount raised by the tax bears to the total exemptions claimed and granted.

The words "resident," "residence," "permanent residence" and those of like import, shall not be construed so as to require continuous physical residence on the property, but mean only that place which the person claiming the exemption may rightfully and in good faith call his or her home to the exclusion of all other places where he or she may, from time to time, temporarily reside. "Homestead" shall mean the house and lot in urban territory, and buildings and farm land in rural territory.

The state tax assessor shall furnish to the assessors of each city and town a sufficient number of printed forms to be filed by taxpayers claiming to be entitled to said exemption. Said forms shall be substantially as follows:

Tax Assessors of Maine;

I hereby make application for an exemption from all taxation up to the valuation of \$2000 on the following described property:

.....
.....

The title to said property is in

.....

(Name all owners and their proportionate interest)

and my interest or title in this property is as follows:

.....

(If title is not in applicant or is held jointly with others, give relationship

of the owner or joint owner, to applicant)

I reside on the above property and in good faith make the same my permanent home and do hereby declare that I am a bona fide citizen of the state of Maine.

The statements contained and agreed to herein are true and made in good faith.

.....
Applicant

Subscribed and sworn to before me this..... day of.....
.....194...

.....
(See other side for copy of law)

A copy of the 1st and 2nd paragraphs of this section shall be printed on the back of the form.

It shall be the duty of each taxpayer who claims said exemption to file one of said forms, properly filled out and executed, with the tax assessors of his city or town on or before April 1st of each year; and the failure to do so shall constitute a waiver of said exemption for such year.

The tax assessors shall examine each claim for exemption filed with them or referred to them and shall allow the same if it is found to be in accordance with law, by marking the same approved subject, however, to the pro rata return to be received from the state, and by making the proper notations on the tax books. In every case the property shall be assessed whether the value be more or less than \$2000, and an appropriate notation shall be made as the case may be.

The tax assessors of the several cities and towns of the state of Maine shall, as soon as practicable after the 1st day of April of each current year and prior to the 1st Monday in May of said year, carefully consider all applications for tax exemption that shall have been filed in their respective offices on or before the 1st day of April of that year and if upon such investigation the tax assessors find the applicant entitled to the claim for tax exemption applied for under the law they shall mark the application approved and file same in the permanent records of their office and shall make such entries upon the tax rolls of their city or town as will be necessary to allow such claim of exemption to the applicant. If, after due consideration, the tax assessors should find the applicant not to be entitled under the law to the claim of exemption asked for, it shall be the duty of such tax assessors to immediately make out in triplicate form a notice of

such disapproval, giving their reasons therefor, a copy of which notice shall be served upon the applicant by the tax assessors either by personal delivery or by registered mail to the post office address given by the applicant and shall make return of the manner in which such notice was served upon said applicant upon the original notice thereof and immediately file same with the clerk of the city or town. The 3rd copy of said notice shall likewise have entered upon it the return of the tax assessors as to service had and filed among the permanent records of their office.

Three referees may be chosen in the manner hereafter specified to review the facts and to have the power and authority to reverse the decision of the assessors and grant the claim to exemption to the applicant if in their judgment the applicant is entitled thereto, or to affirm the decision of the assessors, and such decision shall be final. All referees chosen shall be persons who have adequate knowledge of real estate values in the community. The applicant may appeal from the findings by filing a notice with the clerk of the city or town within 15 days of the receipt of his notice, of his appeal together with the name of a referee. The tax assessors shall be forthwith notified of such appeal, and shall choose a referee within 7 days of such notice. The 2 referees chosen shall select a 3rd referee within 7 days of the choice of the 2nd referee. The referees shall report their decision to the tax assessors within 30 days of the time the 3rd referee has been selected, and file their report with the clerk of the city or town in which the property is located. For the purpose of administering the provisions of this section or performing any other duties pertaining to proper administration of the duties of the office of tax assessor or the making and filing of tax returns and application for tax exemption as provided under this section, the duly elected tax assessors of the several cities and towns or their lawful deputies are hereby authorized and empowered to administer oaths and to attest the same in the same manner as notaries public and justices of the peace. All claims for exemption granted within their various precincts shall be totaled by the various cities and towns and reported to the state tax assessor on or before August 1 of each year.

Sec. 2. "Homestead fund". The treasurer of state shall set up a fund to be called the "Homestead Fund". The state tax assessor shall pay over to the treasurer of state all monies received under the provisions of titles I and II to be credited to said fund. All of the expenses of the state administration of the provisions of titles I and II shall be paid from this fund.

There is hereby appropriated out of the "Homestead Fund" herein created \$1,000,000 for the fiscal year ending June 30, 1942, and for each

year thereafter, for the purpose of paying old age pensions as provided by the law of the state; provided, however, that in case such an appropriation or any part thereof is not necessary and is not expended for the purpose of paying old age pensions, it shall lapse and shall be applied to payment of homestead exemptions.

After July 1 of each year the state tax assessor shall determine the amount of the net revenue derived from the tax imposed by titles I and II herein, less the expenditure for old age pensions under the provisions of this title, and on receipt of the returns from all of the various cities, towns, and plantations of the claims for exemptions granted under the provisions of this title which returns shall be made before August 1 of each year, shall apportion the amounts due the cities, towns and plantations and shall certify the amounts to the treasurer of state who shall forthwith pay the same out of said fund.

Sec. 3. Reimbursement to towns; ratio. The exemptions provided for in this title shall be effective in such proportion as the total amount of the net revenue derived from the taxes collected under the provisions of titles I and II less the expenditures for old age pensions under the provisions of this title shall bear to the total amount of the exemptions granted within the state under the provisions of this title; and the net revenue from the tax herein set forth shall be paid to the various cities, towns and plantations in such proportion as the exemptions granted under the provisions of this title in the particular city, town or plantation bear to the net revenue derived by the state from the taxes collected hereunder, less the expenditures for old age pensions under the provisions of this title. The treasurers of the various cities and towns shall grant a rebate of taxes to those whose claims of exemptions have been granted in such percentage as the total amount received from the state by the city or town for that purpose shall bear to the total amount of the claims for exemption granted in that city or town.

Sec. 4. Appropriation. The revenue derived from the taxes imposed by titles I and II hereof is hereby appropriated for the purposes set forth in this title.

TITLE IV

Validating Clause

Validating clause. If any sentence, section, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining provisions of this act.