

# 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 scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

---

J.S. McCarthy Co., Inc.  
Augusta, Maine

---

---

**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

---

---

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1986.

Effective July 1, 1986.

---

---

**CHAPTER 764**

H.P. 1678 - L.D. 2364

**AN ACT Concerning Property Tax Assessment and Appeals.**

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

Sec. 1. 3 M.R.S.A. §507, sub-§10, ¶B, as repealed and replaced by PL 1983, c. 819, Pt. A, §4, is amended to read:

B. Unless continued or modified by law, the following Group E-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1989. The Board of Emergency Municipal Finance, the Finance Authority of Maine and the Maine Municipal Bond Bank shall not terminate, but shall be reviewed by the Legislature no later than June 30, 1989:

- (1) Board of Emergency Municipal Finance;
- (2) Finance Authority of Maine;
- (3) Maine Municipal Bond Bank;
- ~~(4) Municipal Valuation Appeals Board;~~
- ~~(5) Land Classification Appeals Board;~~
- (6) State Liquor Commission;
- (7) Capitol Planning Commission;
- ~~(8) State Board of Assessment Review; and~~
- (9) Maine Health Care Finance Commission;  
and
- (10) State Board of Property Tax Review.

Sec. 2. 5 MRSA §12004, sub-§2, ¶A, as enacted by PL 1983, c. 812, §39, is amended to read:

A. This classification shall include the following boards:

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
{1} State Board of Assessment Review	\$50/Day	36 MRSA §486
{2} Land Classification Appeals Board	\$25/Day- Public Member	36 MRSA §841-B
{3} Municipal Valuation Appeals Board	\$50/Day	36 MRSA §291
(4) State Claims Board	\$100/Day	23 MRSA §152
(5) <u>State Board of Property Tax Review</u>	<u>\$50/Day</u>	<u>36 MRSA §271</u>

Sec. 3. 36 MRSA §191, sub-§2, ¶I, as amended by PL 1981, c. 504, §1, is further amended to read:

I. The disclosure of information acquired pursuant to Part 2; and

Sec. 4. 36 MRSA §191, sub-§2, ¶J, as enacted by PL 1981, c. 504, §2, is amended to read:

J. The disclosure to a state agency seeking set-off of a liquidated debt against a tax refund pursuant to section 5276-A of information necessary to effectuate the intent of that section; and

Sec. 5. 36 MRSA §191, sub-§2, ¶K is enacted to read:

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on the declaration of value form required by section 4641-B, to a person who has filed an application for abatement pursuant to section 841. Information which may be disclosed is limited to information which is relevant to the determination of just value of the property for which the form was filed.

Sec. 6. 36 MRSA §208, as repealed and replaced by PL 1975, c. 628, §1, is amended to read:

§208. Equalization

The Director of the Bureau of Taxation shall have the duty of equalizing the state and county taxes among the several towns and unorganized territory. He shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its just value as of April 1st. Notice of the proposed valuations of municipalities within each county shall be sent by certified mail to the chairman of the board of assessors, and chairman of the board of selectmen in municipalities having selectmen, of each municipality within that county on or before the first day of September preceding the regular session of the Legislature. The valuation so determined is subject to review by the Municipal Valuation Appeals Board State Board of Property Tax Review pursuant to sections 291, 292 and 293 subchapter II-A, but the valuation finally certified to the Secretary of State pursuant to section 381 shall be used for all computations required by law to be based upon the state valuation with respect to municipalities.

Sec. 7. 36 MRSA c. 101, sub-c. III is repealed.

Sec. 8. 36 MRSA c. 101, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

PROPERTY TAX APPEALS

§271. State Board of Property Tax Review

1. Organization; meetings. The State Board of Property Tax Review, as established by Title 5, section 12004, subsection 2, shall consist of 15 members appointed by the Governor for terms of 3 years, except for initial appointments which shall be 1/3 of the membership for one year, 1/3 of the membership for 2 years and 1/3 of the membership for 3 years. Vacancies on the board shall be filled for the remainder of the unexpired term. The membership shall be equally divided among attorneys, real estate brokers, engineers, retired assessors and public members. The board shall annually elect a chairman and secretary. The secretary need not be chosen from the members of the board.

2. Powers and duties. The board shall have the following powers and duties:

A. Hear and determine appeals according to the following provisions of law:

(1) The tree growth tax law, chapter 105, subchapter II-A;

(2) The farm and open space law, chapter 105, subchapter X;

(3) As provided in section 843;

(4) As provided in section 844;

(5) Section 272; and

(6) Section 2865;

B. Raise or lower assessments to conform to the law;

C. Promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, governing procedures before the board; and

D. Administer oaths, take testimony, hold hearings, summon witnesses, subpoena records, files and documents it considers necessary for carrying out its responsibilities.

3. Procedures. Requests for appeals shall be mailed to the chairman of the board, with a copy to the State Tax Assessor and to the assessor of the municipality where the property subject to appeal is located.

4. Services. The board may request the advice and services of any assessor or appraiser holding a valid certificate from the Bureau of Taxation and other persons as it deems advisable. No assessor or appraiser may sit with the board concerning any property which he has previously appraised or assessed.

5. Hearings. Upon receipt of an appeal, the chairman of the board shall select from the list of board members 5 persons to hear the appeal and shall notify all parties of the time and place of the hearing. The selection of members for an appeal hearing shall be based upon availability, geographic convenience and area of expertise. Three of the 5 members shall constitute a quorum.

6. Compensation. Board members serving on an appeal panel shall be compensated according to Title 5, chapter 379.

7. Appeal. Decisions of the board may be appealed pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

8. Transition provision. All proceedings and other matters which were pending before the Municipal Valuation Appeals Board, the Land Classification Appeals Board or the State Board of Assessment Review prior to the effective date of this section, or which were on appeal from any of those boards prior to the effective date of this section and are remanded on or after the effective date of this section, shall automatically become the responsibility of the State Board of Property Tax Review and all documents and other materials related thereto and in the possession of those boards shall be delivered to the board. The decision of any municipal board of assessment review or county commissioners on any property tax appeal pending before the municipal board of assessment review or county commissioners on the effective date of this section and relating to nonresidential property with an equalized municipal valuation of \$500,000 or greater or any application which is deemed denied, may be appealed to the State Board of Property Tax Review within 60 days of the decision or the date of the application is deemed to be denied. The State Board of Property Tax Review shall hold a hearing de novo and if the board thinks that the owner is over-assessed, he shall be granted such reasonable abatements as the board thinks proper.

#### §272. Municipal valuation appeals

The State Board of Property Tax Review shall hear appeals by any municipality aggrieved by the Bureau of Taxation's determination of equalized valuation or failure to meet minimum assessing standards and render its decision based upon the recorded evidence.

1. Filing. Any municipality aggrieved shall file a written notice of appeal within 45 days of notification of the decision of the Bureau of Taxation. The appeal to the board shall be in writing signed by a majority of the municipal officers, and shall be accompanied by an affidavit stating the grounds for appeal. A copy of the appeal and the affidavit shall be served on the Bureau of Taxation.



2. Hearing. The board shall hear the appeal within a reasonable time of the filing of the appeal by the municipality and shall render its decision no later than January 15th following the date on which the appeal is taken. The board shall order notice of hearing and give at least 5 days' notice prior to hearing thereof to the municipality and to the Bureau of Taxation.

3. Determination. The Bureau of Taxation shall have the burden of showing that its determination is reasonable and the municipality's claims are unreasonable. The board shall sustain the determination of the Bureau of Taxation only upon finding that the bureau's determination is reasonable and the claims of the municipality are unreasonable. If the board does not sustain the bureau's determination, it shall make its own reasonable determination giving due weight to the claims of the municipality and the Bureau of Taxation.

4. Powers. The board, after hearing, shall have the power to:

A. Raise, lower or sustain the state valuation as determined by the Bureau of Taxation with respect to the municipality which has filed the appeal; or

B. Raise, lower or sustain the Bureau of Taxation's determination of the municipality's achieved assessing standards and then, if the achieved standards were inadequate under the provisions of this chapter and upon receiving from both the bureau and the municipality recommended solutions to the inaccurate assessing practices, order the municipality to take the corrective steps the board considers necessary.

The board shall certify its decision to the Bureau of Taxation which shall, if necessary, incorporate the decision in the valuation certified pursuant to section 305, subsection 1.

5. Procedure following appeal. The valuation determined on appeal shall be certified to the State Tax Assessor, who shall, if necessary, incorporate the decision in the valuation certified pursuant to section 305, subsection 1. If an appeal to the Superior Court or Supreme Judicial Court results in a lowering of the municipality's state valuation, the Treasurer of State shall reimburse with funds appropriated from the General Fund, an amount equal to

money lost by the municipality, due to the use by the State of an incorrect state valuation in any statutory formula used to distribute state funds to municipalities.

§273. Nonresidential property exceeding \$500,000

If the owner of nonresidential property with an equalized municipal valuation of \$500,000 or greater appeals to the State Board of Property Tax Review as provided in sections 843 and 844, the state board shall hold a hearing de novo.

Sec. 9. 36 MRSA §329, sub-§2, as amended by PL 1979, c. 666, §11, is further amended to read:

2. Appeal. The municipality deeming itself aggrieved may file a written notice of appeal with the Municipal Valuation Appeals Board State Board of Property Tax Review in accordance with the provisions of sections 291 through 293 subchapter II-A.

Sec. 10. 36 MRSA §§330 and 331 are enacted to read:

§330. Professional assessment firms

1. Guidelines for professional assessing firms. The State Tax Assessor shall establish guidelines by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, for professional assessing firms which shall include the following:

A. Each firm shall employ at least one certified Maine assessor; and

B. Each professional assessing firm performing revaluation services for a municipality shall agree to provide the municipality with papers and information necessary to conduct future revaluations.

2. Model contract. The State Tax Assessor shall develop a model contract for revaluation services. This model contract shall be made available to all municipalities.

3. Assistance to municipalities. The State Tax Assessor shall provide technical assistance to municipalities, when requested, in evaluating and selecting professional revaluation firms.

§331. Assessment manual

The State Tax Assessor shall maintain and periodically update a State assessment manual by rule, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, which shall identify accepted and preferred methods of assessing property.

Any municipality performing or contracting for the performance of a revaluation after January 1, 1987, shall use or require the use of the State assessment manual or another professionally accepted manual or procedure.

Sec. 11. 36 MRSA §486 as amended by PL 1983, c. 812, §§268 and 269, is repealed.

Sec. 12. 36 MRSA §583, as amended by PL 1979, c. 666, §19, is further amended to read:

§583. Abatement

Assessments made under this subchapter and denials of applications for valuation under this subchapter are subject to the abatement procedures provided by section 841. Appeal from an abatement decision rendered under section 841 shall be to the ~~Land Classification Appeals Board~~ State Board of Property Tax Review.

Sec. 13. 36 MRSA §701-A, as enacted by PL 1969, c. 246, is amended to read:

§701-A. Just value defined

In the assessment of property, assessors in determining just value are to define this term in a manner which recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. Assessors in determining just value, assessors must consider all relevant factors, including without limitation, the effect upon value of any enforceable restrictions to which the use of the land may be subjected, current use, physical depreciation, functional obsolescence, and economic obsolescence. Restrictions shall include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is deemed to arise from and is attributable to legally permissible use or uses only.

Sec. 14. 36 MRSA §841-B, as repealed and replaced by PL 1985, c. 295, §54, is repealed.

Sec. 15. 36 MRSA §841-C, as amended by PL 1983, c. 855, §5, is repealed.

Sec. 16. 36 MRSA §842, as amended by PL 1977, c. 509, §17, is further amended to read:

§842. Notice of decision

The assessors, municipal officers, chief assessor or the State Tax Assessor, in the case of the unorganized territory, shall give to any person applying to them for an abatement of taxes notice in writing of their decision upon ~~such~~ the application within 10 days after they take final action thereon. If the assessors, municipal officers, chief assessor or State Tax Assessor, before whom an application in writing for the abatement of a tax is pending, fails to give written notice of their decision within ~~90~~ 60 days from the date of filing of ~~such~~ the application, the application shall be deemed to have been denied, and the applicant may appeal as provided, unless the applicant shall in writing have consented to further delay.

Sec. 17. 36 MRSA §843, as amended by PL 1981, c. 698, §180, is further amended to read:

§843. Appeals

1. Municipalities. Where the municipality has adopted a board of assessment review, if the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks he is over-assessed, he shall be granted such reasonable abatement as the board thinks proper. ~~Either~~ Except with regard to nonresidential property with an equalized municipal value of \$500,000 or greater, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of their decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application shall be deemed denied and the applicant may appeal to Superior Court as if there had been a

written denial or the applicant may appeal to the State Board of Property Tax Review by following the procedures specified in subsection 2.

1-A. Nonresidential property exceeding \$500,000. With regard to nonresidential property with an equalized municipal valuation of \$500,000 or greater, either party may appeal the decision of the local board of assessment review to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied. The board shall hold a hearing de novo. If the board thinks that the owner is over-assessed, it shall grant such reasonable abatement as the board thinks proper.

2. Primary assessing areas. If the chief assessor, municipal officer or the State Tax Assessor refuses to make the abatement asked for, the applicant may apply in writing to the State Board of Assessment Review Property Tax Review within 60 days after notice of the decision from which such the appeal is being taken or after the application shall be deemed to have been denied, and if the board thinks he is over-assessed, he shall be granted such reasonable abatement as the board thinks proper. The decision of the State Board of Assessment Review Property Tax Review shall be deemed final agency action by that board under the Maine Administrative Procedure Act. Appeals to the State Board of Assessment Review Property Tax Review shall be directed to the Chairman of the State Board of Assessment Review Property Tax Review, who shall convene the board to hear the appeal and shall notify all parties of the time and place thereof.

Sec. 18. 36 MRSA §844, as amended by PL 1981, c. 364, §22, is repealed and the following enacted in its place:

§844. Appeals to county commissioners

1. Municipalities without board of assessment review. Except where the municipality has adopted a board of assessment review or has been designated as a primary assessing area, if the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply to the county commissioners within 60 days after notice of the decisions from which the appeal is being taken or within 60 days after the application is deemed to have been denied. If the assessors think that the applicant is over-assessed, the applicant shall be granted such

reasonable abatement as the assessors think proper. If the applicant has paid the tax, he shall be reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the Superior Court, and issue their warrant of distress against him for collection of such amount as may be due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made or a copy of it. Either party may appeal from the decision of the county commissioners to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county commissioners fail to give written notice of their decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application shall be deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial or the applicant may appeal to the State Board of Property Tax Review by following the procedures specified in section 843, subsection 2.

2. Nonresidential property exceeding \$500,000. Notwithstanding subsection 1, the owner of nonresidential property with an equalized municipal valuation of \$500,000 or greater may choose to appeal the decision of the assessors or the municipal officials with regard to a request for abatement to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied. If the state board thinks that the owner is over-assessed, it shall grant such reasonable abatement as the board thinks proper.

Sec. 19. 36 MRSa §850 is enacted to read:

§850. Assessment of costs

When an applicant appeals to the State Board of Property Tax Review because the local board of assessment review or county commissioners fail to make a decision, the costs of the state board in deciding the appeal shall be charged to the municipality or county failing to make the decision.

Sec. 20. 36 MRSa §1118, as repealed and replaced by PL 1979, c. 666, §25, is amended to read:

§1118. Appeals and abatements

The denial of an application or an assessment made under this subchapter is subject to the abatement procedures provided by section 841. Appeal from a decision rendered under section 841 or a recommended current use value established under section 1106 shall be to the Land Classification Appeals Board State Board of Property Tax Review.

Sec. 21. 36 MRSA §2865, sub-§2, as enacted by PL 1981, c. 711, §10, is amended to read:

2. Valuation: If a mine site is located in a municipality, he shall determine the valuation of mining property and the percentage of that valuation represented by land and buildings not exempt from property taxes. That valuation of land and buildings shall be applied in determining the property taxes. A municipality in which a mine site is located may appeal that determination to the Municipal Valuation Appeals Board State Board of Property Tax Review as provided under ~~section 291~~ subchapter II-A.

Sec. 22. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1986-87</u>
Municipal Valuation Appeals Boards	
Positions	(-1.0)
Personal Services	\$(20,479)
All Other	<u>(11,442)</u>
Total	\$(31,921)
Board of Assessment Review	
Personal Services	\$(3,700)
All Other	<u>(1,300)</u>
Total	\$(5,000)
Property Tax Review, State Board of	
Positions	(1.0)
Personal Services	\$24,179
All Other	<u>12,742</u>
Total	\$36,921