

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE
1989

68. Maine Science and Technology Commission.

Sales to institutions incorporated as nonprofit organizations which conduct scientific and technological research solely for the Maine Science and Technology Commission and receive funding pursuant to Title 5, chapter 385;

69. Vietnam veteran registries. Sales to incorporated, nonprofit organizations whose sole purpose is to create, maintain and update a registry of Vietnam veterans;

70. Organizations providing certain services for hearing-impaired persons. Sales to incorporated nonprofit organizations whose primary purposes are to promote public understanding of hearing impairment and to assist hearing-impaired persons through the dissemination of information about hearing impairment to the general public and referral to and coordination of community resources available to hearing-impaired persons; and

71. State-chartered credit unions. Sales to credit unions that are organized under the laws of this State. This subsection shall remain in effect only for the time that federally chartered credit unions are, by reason of federal law, exempt from payment of state sales tax.

Sec. 9. 36 MRSA §1765, sub-§7, as enacted by PL 1987, c. 402, Pt. A, §180, is amended to read:

7. Special mobile equipment. ~~Special mobile equipment to the extent of 20% of the trade-in allowance for the property taken in trade;~~

Sec. 10. 36 MRSA §1811, first ¶, as repealed and replaced by PL 1987, c. 497, §40, is amended to read:

A tax is imposed at the rate of 5% on the value of all tangible personal property, on telephone and telegraph service, on extended cable television service, on fabrication services ~~and~~ on custom computer programming sold at retail in this State and on rental of video tapes and video equipment, and at the rate of 7% on the value of all other taxable services sold at retail in this State. Value shall be measured by the sale price, except as otherwise provided.

Sec. 11. 36 MRSA §2013, sub-§1, ¶A, as repealed and replaced by PL 1981, c. 680, is amended to read:

A. "Agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock.

Sec. 12. 36 MRSA §2013, sub-§1, ¶B, as enacted by PL 1977, c. 686, §5, is amended to read:

B. "Commercial fishing" means attempting to catch or cultivate fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include

subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport fishermen to available fishing grounds.

Sec. 13. 36 MRSA §2013, sub-§1, ¶C, as repealed and replaced by PL 1985, c. 691, §§25 and 48, and c. 737, Pt. A, §98, is amended to read:

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the United States Internal Revenue Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7, attachments and equipment for the production of field and orchard crops; new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; or

(2) New or used watercraft used directly and primarily for commercial fishing; and nets, traps, cables, tackle and related equipment necessary to the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7.

Sec. 14. Effective date. Sections 1, 2, 3, 4 and 10 of this Act shall take effect August 1, 1989.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1989, except as otherwise indicated.

Effective July 1, 1989, unless otherwise indicated.

CHAPTER 534

H.P. 776 - L.D. 1088

An Act to Provide Comprehensive Property Tax Relief

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the filing period under the Maine Residents Property Tax Program may occur before the expiration of the 90-day period; and

Whereas, it is necessary for the Commission to Study Problems with the Municipal Assessment, Valuation and Collection of Property Taxes to begin its work on or before August 1, 1989; and

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

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

PART A

Sec. 1. 36 MRSA c. 907, first 2 lines are repealed and the following enacted in their place:

CHAPTER 907

MAINE RESIDENTS PROPERTY TAX PROGRAM

Sec. 2. 36 MRSA §6201, sub-§1, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

1. **Benefit base.** "Benefit base" means property taxes accrued or rent constituting property taxes accrued, less the equivalent tax value of any benefit received or to be received through the program established in chapter 105, subchapter IV-A. In the case of a claimant paying both rent and property taxes for a homestead, benefit base means both property taxes accrued and rent constituting property taxes accrued.

Sec. 3. 36 MRSA §6201, sub-§5, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

5. **Homestead.** "Homestead" means the dwelling, owned or rented by the claimant, and occupied by the claimant and ~~his~~ the claimant's dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land, up to 10 acres, upon which it is built. "Owned" includes a vendee in possession under a land contract and of one or more joint tenants or tenants in common.

Sec. 4. 36 MRSA §6201-A is enacted to read:

§6201-A. Short title

This chapter shall be known and may be cited as the "Maine Residents Property Tax Program."

Sec. 5. 36 MRSA §6204, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

§6204. Filing date

No claim may be paid unless the claim is filed with the Bureau of Taxation on or after August 1st and on or before the following ~~October 15th~~ December 31st.

Sec. 6. 36 MRSA §6207, sub-§1, as amended by PL 1987, c. 876, §5, is repealed and the following enacted in its place:

1. Benefit calculation. For claimants representing a nonelderly household, the benefit is calculated as follows:

A. Fifty percent of that portion of the benefit base which exceeds 4.5% but does not exceed 8.5% of household income, plus 100% of that portion of the benefit base which exceeds 8.5% of income to a maximum payment of \$3,000.

Sec. 7. 36 MRSA §6207, sub-§2, as repealed and replaced by PL 1987, c. 839, §3, is amended to read:

2. **Income eligibility.** Claimants with household incomes in excess of ~~\$28,000~~ \$60,000 are not eligible for a benefit.

Sec. 8. 36 MRSA §6207, sub-§4, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

4. **Minimum benefit.** No claim of less than ~~\$5~~ \$10 may be granted.

Sec. 9. 36 MRSA §6212, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

§6212. Denial of claim

If it is determined that a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full and, if the claim has been paid the amount paid may be recovered by assessment, and the assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid, at the rate of 1% per month. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, commits a Class E crime. If it is determined that a claim is excessive and was negligently prepared, 10% of the corrected claim shall be disallowed, and if the claim has been paid the proper portion of any amount paid shall be similarly recovered by assessment, and the assessment shall bear interest at 1% per month from the date of payment until refunded. Any claimant or spouse with an unpaid liability arising from this section is disqualified from benefits under this chapter.

Sec. 10. 36 MRSA §§6218 to 6220 are enacted to read:

§6218. Readability; application; instructions

The application form and instructions used by applicants for assistance under the Maine Residents Property Tax Program and its successor, if any, shall have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th grade reading level.

§6219. Outreach plan required

The Bureau of Taxation shall develop and implement a plan of outreach to ensure that all eligible households are made aware of assistance available under the Maine Residents Property Tax Program and its successor, if any.

§6220. Coordination required

The Bureau of Taxation shall seek the advice and cooperation of the Bureau of Maine's Elderly; the Bureau of Income Maintenance; the Division of Community Services; advocates for elderly and low-income individuals; the Maine Literacy Coalition; and other interested agencies and organizations in developing the application form and instruction booklet for the Maine Residents Property Tax Program and the outreach plan required by section 6219.

Sec. 11. Allocation. The following funds are allocated from the Property Tax Relief Reserve Fund to carry out the purposes of this Part.

	1989-90	1990-91
FINANCE, DEPARTMENT OF		
Bureau of Taxation - Maine Residents Property Tax Program		
Positions	(21)	(21)
Personal Services	\$283,935	\$347,370
All Other	9,297,517	9,427,630
Capital Expenditures	91,950	

The positions are: 2 Clerk II seasonal positions - 16 weeks; data entry operator converted to full-time from seasonal; 4 seasonal data entry operators - 16 weeks; 3 full-time tax examiners; 7 seasonal taxpayer assistants - 16 weeks; one full-time senior Programmer Analyst; one full-time Tax Section Manager; one full-time Senior Revenue Agent; one full-time Revenue Agent. The final 3 classifications are funded for only 8 months in 1990.

DEPARTMENT OF FINANCE		
TOTAL	<u>\$9,673,402</u>	<u>\$9,775,000</u>
TOTAL ALLOCATIONS		
PART A	<u>\$9,673,402</u>	<u>\$9,775,000</u>

PART B

Sec. 1. 36 MRSA c. 105, sub-c. IV-A is enacted to read:

SUBCHAPTER IV-A

HOMESTEAD PROPERTY TAX EXEMPTIONS

§671. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Permanent residence. "Permanent residence" means that place where a person has a true, fixed and permanent home and principal establishment to which, whenever absent, the person has the intention of returning. A person may have only one permanent residence at a time and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

2. Permanent resident. "Permanent resident" means a person who has established a permanent residence as defined in subsection 1.

3. Real estate used and owned as a homestead. "Real estate used and owned as a homestead" means real property less any portion of that real property used for commercial purposes.

§672. Permanent residency; factual determination by municipal assessor

Intention to establish a permanent residence in this State is a factual determination to be made, in the first instance, by the municipal assessor. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the municipal assessor in making a determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this State:

1. Formal declarations. Formal declarations of the applicant;

2. Informal statements. Informal statements of the applicant;

3. Place of employment. The place of employment of the applicant;

4. Previous permanent residency. The previous permanent residency by the applicant in a state other than Maine or in another country and the date non-Maine residency was terminated;

5. Voter registration. The place where the applicant is registered to vote;

6. Driver's license. The place of issuance of a driver's license to the applicant;

7. License tag. The place of issuance of a license tag on any motor vehicle owned by the applicant;

8. Federal income tax returns. The address as listed on federal income tax returns filed by the applicant; or

9. Maine intangible tax returns. The previous filing of Maine intangible tax returns by the applicant.

§673. Exemption of homesteads

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

A. "Cooperative apartment corporation" means a corporation, whether for profit or nonprofit, organized for the purpose of owning, maintaining and operating an apartment building or apartment buildings to be occupied by its stockholders or members.

B. "Tenant-stockholder or member" means an individual who is entitled, solely by reason of that individual's ownership of stock or membership in a cooperative apartment corporation, to occupy for dwelling purposes an apartment in a building owned by that corporation. A corporation leasing land for a term of 98 years or more for the purpose of maintaining and operating a cooperative apartment on that land shall be considered the owner for purposes of this exemption.

2. Amount of exemption. Every person who has the legal title or beneficial title in equity to real property in this State and who resides on that real property, and in good faith makes the same that person's permanent residence or the permanent residence of another or others legally or naturally dependent upon that person, is entitled to an exemption from all taxation, except for assessments for special benefits of 5% of just valuation up to the just valuation of \$45,000 on the residence and up to 10 acres of contiguous real property. The title may be held jointly or in common with others, and the exemption may be apportioned among the owners that reside on the property, to the extent of their respective interests; but no exemption of more than 5% of the first \$45,000 of just value may be allowed to any one person or on any one dwelling house, except that an exemption up to 5% of the first \$45,000 of just value may be allowed on each apartment occupied by a tenant-stockholder or member of a cooperative apartment corporation and on each condominium parcel occupied by its owner; nor shall the amount of the exemption allowed any person exceed the proportionate just valuation based on the interest owned by that person. This subsection is repealed on April 1, 1991.

2-A. Amount of exemption. Every person who has the legal title or beneficial title in equity to real property in this State and who resides on that real property, and in good faith makes the same that person's permanent residence or the permanent residence of another or others legally or naturally dependent upon that person, is entitled to an exemption from all taxation, except for assessments for special benefits of 5% of just valuation up to the just valuation of \$50,000 on the residence and up to 10 acres of contiguous real property. The title may be held jointly or in common with others, and the exemption may be apportioned among the owners that reside on the property, to the extent of their respective interests; but no exemption of more than 5% of the first \$50,000 of just value may be allowed to any one person or on any one dwelling house, except that an

exemption up to 5% of the first \$50,000 of just value may be allowed on each apartment occupied by a tenant-stockholder or member of a cooperative apartment corporation and on each condominium parcel occupied by its owner; nor shall the amount of the exemption allowed any person exceed the proportionate just valuation based on the interest owned by that person. This subsection shall take effect on April 1, 1991.

3. Applicability. The exemption provided in this section applies only to those parcels classified and assessed as owner-occupied residential property or only to the portion of property classified and assessed as owner-occupied residential property.

4. Exemptions in addition to other exemptions. The exemptions provided in subchapter IV, sections 653 and 654, shall be in addition to the homestead exemption.

§674. Forms

The Bureau of Taxation shall furnish to the municipal assessor of each municipality a sufficient number of printed forms to be filed by taxpayers claiming to be entitled to the exemption and shall prescribe the content of those forms by rule.

§675. Application

1. Filing claims. At the time each taxpayer files claim for a homestead exemption, the municipal assessor shall deliver to the taxpayer a receipt over the municipal assessor's signature, or that of an authorized designee, which shall appropriately identify the property covered in the application, shall bear the date the application is received by the municipal assessor and shall include any serial number or other identifying data desired by the municipal assessor. The possession of the receipt constitutes conclusive proof of the timely filing of the application.

2. False filing. Any person who knowingly gives false information for the purpose of claiming homestead exemption as provided for in this chapter is guilty of a Class E crime.

3. Reapplication. Any municipality may, at the request of the municipal assessor and by majority vote of its governing body, waive the requirement that an annual application be made for exemption for property within the municipality after an initial application is made and exemption granted, except that reapplication shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner or when the applicant for homestead exemption ceases to use the property as a homestead. In its deliberations on whether to waive the annual application requirement, the governing body shall consider the possibility of fraudulent homestead exemption claims which may occur due to the waiver of the annual application requirement. It is the duty of the owner of any property granted an exemption who is not required to file an annual application to notify the municipal assessor promptly whenever the use of the property changes so as to

change the exempt status of the property. Any property owner who fails to notify the municipal assessor shall be subject to the provisions of section 678. This subsection shall apply only to exemptions requested pursuant to this section.

§676. Duty of municipal assessor

The municipal assessor shall examine each claim for exemption filed with the municipal assessor and, if the claim is found to be in accordance with law, shall mark the claim approved and make the proper deductions on the tax books.

§677. Homestead exemptions; approval; refusal; hearings

The municipal assessors of the several municipalities of the State shall, as soon as practicable after April 1st of each current year and on or before July 1st of that year, carefully consider all applications for tax exemptions that have been filed in their respective offices on or before March 1st of that year. If, upon investigation, the municipal assessor finds that the applicant is entitled to the tax exemption applied for under the law, the municipal assessor shall make entries upon the tax rolls of the municipality necessary to allow the exemption to the applicant. If, after due consideration, the municipal assessor finds that the applicant is not entitled under the law to the exemption, the municipal assessor shall immediately make out a notice of disapproval that includes the reasons for disapproval. A copy of the notice shall be served upon the applicant by the municipal assessor either by personal delivery or by registered mail to the post office address given by the applicant, and the municipal assessor shall file the notice with the clerk of the State Board of Property Tax Review. The notice of disapproval of application for the exemption, when filed with the board, constitutes an appeal of the applicant to the board from the decision of the municipal assessor refusing to allow the exemption, and the board shall review the application and evidence presented to the municipal assessor upon which the applicant based the claim for exemption and shall hear the applicant in person or by agent on behalf of the applicant's right to an exemption. The board shall reverse the decision of the municipal assessor and grant the exemption to the applicant if in its judgment the applicant is entitled to the exemption or affirm the decision of the municipal assessor. The action of the board is final unless the applicant, within 15 days from the date of refusal of the application by the board, files in the District Court of the county in which the homestead is situated a proceeding against the municipal assessor for a declaratory judgment or other appropriate proceeding. The failure of the taxpayer to appear before the municipal assessor or State Board of Property Tax Review or to file any paper other than the application as in section 675 shall not constitute any bar or defense to further proceedings.

§678. Lien imposed on property of person claiming exemption although not permanent resident

1. Tax lien. When the estate of any person is being probated or administered in another state under an allegation that that person was a resident of that state and the estate of that person contains real property situated in this State upon which a homestead exemption has been allowed

pursuant to section 675 for any year or years within 10 years immediately prior to the death of the person, then within 3 years after the death of that person the assessor of the municipality where the real property is located shall, upon knowledge of that fact, record a notice of tax lien against the property among the public records of that municipality and the property shall be subject to the payment of all taxes previously found exempt, plus 15% interest per year, unless the District Court having jurisdiction over the ancillary administration in this State determines that the decedent was a permanent resident of this State during the year or years an exemption was allowed, in which case the lien shall not be filed or, if filed, shall be canceled of record by the municipal assessor of the municipality where the real estate is located.

2. Property subject to tax. In addition to subsection 1, upon determination by the municipal assessor that for any year or years within the prior 10 years a person who was not entitled to a homestead exemption was granted a homestead exemption from ad valorem taxes, that person's property that is situated in this State shall be subject to the taxes previously exempted, plus 15% interest per year.

3. Collection. The collection of taxes provided in this section shall be in the same manner as existing ad valorem taxes and the procedure for recapturing taxes under this section shall be supplemental to any existing provision under the laws of this State.

4. Notice. The lien provided in this section does not attach to the property until the notice of tax lien is filed among the public records of the municipality where the property is located. Prior to the filing of the notice of lien, any purchaser for value of the subject property shall take free and clear of the lien.

Sec. 2. Review. The State Tax Assessor shall review the administrative, legal and technical requirements of this Part to ensure compliance with existing administrative procedures. This review may include discussions with other states that currently operate homestead exemption programs and shall be completed prior to January 1, 1990. The State Tax Assessor shall submit the results of this review, together with any necessary implementing or correcting legislation, to the Joint Standing Committee on Taxation in the Second Regular Session of the 114th Legislature.

Sec. 3. Allocation. The following funds are allocated from the Property Tax Relief Reserve Fund to carry out the purposes of this Part.

1990-91

FINANCE, DEPARTMENT OF

Bureau of Taxation - Homestead Exemption

All Other	\$10,000,000
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Provides funds for benefits for the homestead exemption program.

DEPARTMENT OF FINANCE	
TOTAL	<u>\$10,000,000</u>
TOTAL ALLOCATIONS -	
PART B	<u>\$10,000,000</u>

PART C

Sec. 1. 36 MRSA c. 908 is enacted to read:

CHAPTER 908

**DEFERRED COLLECTION OF
HOMESTEAD PROPERTY TAXES**

§6250. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Benefited property.** "Benefited property" means a lot or parcel of land which is benefited by sewer, water or natural gas and on which an assessment has been determined against the owner.

2. **Bureau.** "Bureau" means the Bureau of Taxation.

3. **Homestead.** "Homestead" means the owner-occupied principal dwelling, either real or personal property, owned by the taxpayer and up to 10 contiguous acres upon which it is located. If the homestead is located in a multi-unit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any.

4. **Tax-deferred property.** "Tax-deferred property" means the property upon which taxes are deferred under this chapter.

5. **Taxes.** "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

6. **Taxpayer.** "Taxpayer" means an individual who has filed a claim for deferral under this chapter or individuals who have jointly filed a claim for deferral under this chapter.

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

1. **Filing claim.** Subject to section 6252, an individual, or 2 or more individuals jointly, may elect to defer the property taxes on their homestead by filing a claim for deferral with the municipal assessor after January 1st and on or before April 1st of the first year in which deferral is claimed if:

A. The individual or, in the case of 2 or more individuals filing a claim jointly, each individual is 65 years of age or older on April 1st of the year in which the claim is filed; and

B. The individual has or, in the case of 2 or more individuals filing a claim jointly, all of the individuals together have, household income, as defined in section 6201, subsection 7, of less than \$32,000 for the calendar year immediately preceding the calendar year in which the claim is filed.

The municipal assessor shall forward each claim filed under this subsection to the bureau within 15 days of receipt, which shall determine if the property is eligible for deferral.

2. **Property tax deferral.** When the taxpayer elects to defer property taxes for any year by filing a claim for deferral under subsection 1, it shall have the effect of:

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

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

C. Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of section 6252 are met.

3. **Guardian compliance.** If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under this chapter, the guardian or conservator may act for that individual in complying with this chapter.

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

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

6. **Appeal.** Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may appeal in the manner provided in chapter 101, subchapter II-A.

§6252. Property entitled to deferral

In order to qualify for tax deferral under this chapter, the property must meet all of the following requirements when the claim is filed and thereafter as long as the payment of taxes by the taxpayer is deferred.

1. Claimant's homestead. The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health.

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

3. No prohibitions. There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

§6253. Claim forms; contents

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

A. Describe the homestead;

B. Recite facts establishing the eligibility for the deferral under the provisions of this chapter, including facts that establish that the household income as defined in section 6201, subsection 7, of the individual, or, in the case of 2 or more individuals claiming the deferral jointly, was less than \$32,000 for the calendar year immediately preceding the calendar year in which the claim is filed; and

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

2. Statement verification. There shall be annexed to the claim a statement verified by a written declaration of the applicant making the claim to the effect that the statements contained in the claim are true.

§6254. State liens against tax-deferred property

1. Lien. The bureau shall have a lien against the tax-deferred property for the payment of the deferred taxes plus interest thereon and any fees paid to the county clerk by the bureau in connection with the recording, release or satisfaction of the lien. The liens for deferred taxes shall attach to the property on April 1st of the year in which the taxes were assessed. The deferred property tax liens shall have the same priority as other real property tax liens except that the lien

of mortgages or trust deeds that are recorded prior to the attachment of the lien for deferred taxes shall be prior to the liens for deferred taxes.

2. Foreclosure. The lien may be foreclosed by the bureau. Reasonable attorney's fees at trial and on appeal and costs may be granted the bureau in a suit for foreclosure of its lien.

3. Foreclosure receipts. Receipts from foreclosure proceedings shall be credited in the same manner as other repayments of deferred property taxes under section 6266.

§6255. Listing of tax-deferred property; interest accrual

1. Tax-deferred property list. If eligibility for deferral of homestead property is established as provided in this chapter, the bureau shall notify the municipal assessor and the municipal assessor shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating that property as tax-deferred property.

2. Tax statement. When requested by the bureau, the municipal tax collector shall send to the bureau as soon as the taxes are extended upon the roll the tax statement for each tax-deferred property.

3. Interest. Interest shall accrue on the actual amount of taxes advanced to the municipality for the tax-deferred property at the rate of 6% per annum.

§6256. Recording liens in county; recording constitutes notice of state lien

1. Recording of liens. For each municipality in which there is tax-deferred property, the bureau shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that municipality. The list shall contain a description of the property as listed on the assessment roll together with the name of the owner listed thereon. The list shall be corrected each time an additional deferral occurs or partial payments are received.

2. Notice of recording. The recording of the tax-deferred properties under subsection 1 is notice that the bureau claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county clerk in connection with the recording, release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

§6257. Municipal tax collector to receive amount equivalent to deferred taxes from State

1. Amount of deferred taxes. Upon determining the amount of deferred taxes on tax-deferred property for the tax year, the bureau shall pay to the respective municipal tax collectors an amount equivalent to the deferred taxes. Payment shall be made from the revolving account established under section 6266.

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

§6258. Notice to taxpayer regarding duty to claim deferral annually

1. Annual deferral notice. On or before December 15th of each year, the bureau shall send a notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice shall:

A. Inform the taxpayer that the property taxes have been deferred in the current year;

B. Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing therein to November 15th of the current year;

C. Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the bureau; and

D. Contain any other information that the bureau considers necessary to facilitate administration of the homestead deferral program including, but not limited to, the right of the taxpayer to submit any amount of money to reduce the total amount of the deferred taxes and interest.

2. Notice mailed. The bureau shall give the notice required under subsection 1 by mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the bureau to be the correct address of the taxpayer.

§6259. Events requiring payment of deferred tax and interest

Subject to section 6261, all deferred property taxes, including accrued interest, become payable as provided in section 6260 when:

1. Death of claimant. The taxpayer who claimed deferment of collection of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the taxpayers who originally claimed deferment of collection of property taxes under section 6251 dies;

2. Sale of property. The property with respect to which deferment of collection of taxes is claimed is sold, a contract to sell is entered into, or some person other than the taxpayer who claimed the deferment becomes the owner of the property;

3. Claimant moves. The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from that tax-deferred property by reason of health; or

4. Removal of home. The tax-deferred property, a mobile or floating home, is moved out of the State.

§6260. Time for payments; delinquencies

Whenever any of the circumstances listed in section 6259 occurs:

1. Continuation of assessment year. The deferral of taxes for the assessment year in which the circumstance occurs shall continue for that assessment year;

2. Deferred property taxes due. The amounts of deferred property taxes, including accrued interest, for all years shall be due and payable to the bureau April 15th of the year following the calendar year in which the circumstance occurs, except as provided in subsection 3 and section 6261;

3. Out-of-state move. Notwithstanding the provisions of subsection 2 and section 6263, when the circumstance listed in section 6259, subsection 4, occurs, the amount of deferred taxes shall be due and payable 5 days before the date of removal of the property from the State; and

4. Delinquency. If the amounts falling due as provided in this section are not paid on the indicated due date or as extended under section 6263, those amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in section 6254.

§6261. Election by spouse to continue tax deferral

1. Continuation by spouse. When one of the circumstances listed in section 6259, subsections 1 to 3 occurs, the spouse who did not or was not eligible to file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided under section 6251 if:

A. The spouse of the taxpayer is or will be 65 years of age or older not later than 6 months from the day the circumstance listed in section 6259, subsections 1 to 3 occurs; and

B. The property is the homestead of the spouse of the taxpayer and meets the requirements of section 6252, subsection 2.

2. Continuation of deferral by spouse. A spouse who does not meet the age requirements of subsection 1, paragraph A, but is otherwise qualified to continue the property in its tax-deferred status under subsection 1 may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided under section 6251. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 65 years of age prior to April 1st of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may

elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided under section 6251. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this chapter.

3. Filing extension. Notwithstanding that section 6251 requires that a claim be filed no later than April 1st, if the bureau determines that good and sufficient cause exists for the failure of a spouse to file a claim under this section on or before April 1st, the claim may be filed within 90 days after notice of taxes due and payable under section 6260 is mailed or delivered by the department to the taxpayer or spouse.

§6262. Voluntary payment of deferred tax and interest

1. Payments. All payments of deferred taxes shall be made to the bureau.

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

A. The taxpayer or the spouse of the taxpayer; or

B. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

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

4. Payment application. Any payment made under this section shall be applied first against accrued interest and any remainder against the deferred taxes. This payment does not affect the deferred-tax status of the property. Unless otherwise provided by law, this payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

5. Lien discharge. When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the bureau shall prepare and record in the county in which the property is located a lien discharge.

§6263. Extension of time for payment upon death of claimant or spouse

1. Payment extension. If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral under section 6261 dies, the bureau may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under section 6260, subsection 2, if:

A. The homestead property becomes property of an individual or individuals:

(1) By inheritance or devise; or

(2) If the individual or individuals are heirs or devisees in the course of settlement of the estate;

B. An individual or individuals commence occupancy of the property as a principal residence on or before August 15th of the calendar year following the calendar year of death; or

C. An individual or individuals make application to the bureau for an extension of time for payment of the deferred taxes and interest prior to August 15th of the calendar year following the calendar year of death.

2. Extension terms. Subject to paragraph B, an extension granted under this section shall be for a period not to exceed 5 years after August 15th of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the bureau and the individual or individuals.

An extension granted under this section shall terminate immediately if:

A. The homestead property is sold or otherwise transferred by any party to the extension agreement;

B. All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

C. The homestead property, a mobile or floating home is moved out of the State.

3. Accrued interest. During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided under section 6255, subsection 3. No interest may accrue upon interest.

§6264. Limitations

Nothing in this chapter is intended to or may be construed to:

1. Foreclosure. Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property;

2. Benefited property. Defer payment of special assessments to benefited property which do not appear on the assessment and tax roll; or

3. Land provisions. Affect any provision of any mortgage, or other instrument relating to land, requiring a person to pay property taxes.

§6265. Deed or contract clauses preventing application for deferral prohibited; clauses void

After the effective date of this chapter, it shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement that prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in this chapter. Any such clause or statement in a mortgage trust deed or land sale contract executed after the effective date of this chapter shall be void.

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

1. Revolving account. This section establishes in the State Treasury the Senior Property Tax Deferral Revolving Account to be used by the bureau for the purpose of making the payments to municipal tax collectors of property taxes deferred for tax years beginning on or after April 1, 1990, as required by section 6257.

2. Advancement of funds. The funds necessary to make payments under subsection 1 shall be advanced to the bureau from time to time as necessary by the Treasurer of State as an appropriation from the General Fund.

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

4. Appropriation request. If there is not sufficient money in the revolving account to make the payments required by subsection 1, the State Tax Assessor shall request an appropriation from the General Fund which together with the money in the revolving account will provide an amount sufficient to make the required payments.

5. General Fund reimbursement. When the bureau determines that funds in sufficient amounts are available in the revolving account, the bureau shall repay to the General Fund the amounts advanced as appropriations under subsection 2, plus accrued interest.

Sec. 2. Review. The State Tax Assessor shall review the administrative, legal and technical requirements of this Part to ensure compliance with existing administrative procedures. This review may include discussions with other states that currently operate tax deferral programs and shall be completed prior to January 1, 1990. The State Tax Assessor shall submit the results of this review, together with any necessary implementing or correcting legislation, to the Joint Standing Committee on Taxation in the Second Regular Session of the 114th Legislature.

Sec. 3. Allocation. The following funds are allocated from the Property Tax Reserve Relief Fund to carry out the purposes of this Part.

1989-90 1990-91

FINANCE, DEPARTMENT OF

Bureau of Taxation -
Elderly Tax Deferral

Positions - Legislative Count	(2)	(2)
Personal Services	\$32,580	\$68,418
All Other	12,500	375,000
Capital Expenditures	10,000	

DEPARTMENT OF FINANCE

TOTAL \$55,080 \$443,418

TOTAL ALLOCATIONS - PART C \$55,080 \$443,418

PART D

Sec. 1. Commission established; membership.

The Commission to Study Problems with the Municipal Assessment, Valuation and Collection of Property Taxes is established. The commission shall consist of 9 members, appointed in the following manner: 3 members of the House of Representatives appointed by the Speaker of the House of Representatives; 2 Senators appointed by the President of the Senate; the Director of the Property Tax Division, Bureau of Taxation, Department of Finance; one school official; and 2 municipal officials appointed jointly by the Speaker of the House of Representatives and the President of the Senate. The Speaker of the House of Representatives and the President of the Senate shall promptly notify the Legislative Council of the appointments. The President of the Senate and the Speaker of the House of Representatives shall ensure that at least 2 of the commission members represent communities which receive 0 to 25% of their school costs through the state education funding formula.

Sec. 2. Commission charged. The commission shall study taxpayers' general dissatisfaction with property taxes to find the reasons for property taxpayers' frustrations and the causes of local anti-property tax pressures. Specifically, the commission shall:

1. Examine the problems, if any, preventing municipalities from adopting the State of Maine Assessment Manual. The commission shall investigate ways to encourage municipalities that do not presently use the manual to adopt the manual for their assessment of property;

2. Examine the method municipalities use to collect property taxes and explore whether alternative methods, such as quarterly or more frequent payment schedules, would be more acceptable to taxpayers;

3. Study whether the state payment to low-income and elderly taxpayers under the tax circuit breaker programs could be credited to the property taxes owed rather than made as direct payments to the taxpayer. The commission should assess whether this would make a clearer connection between the circuit breaker and the property tax and give town officials some recognition that property taxes have been reduced; and

4. Study whether the inequities in the assessments of residential properties within a municipality and between residential and other types of property within a municipality can be reduced. For assessments to be equitable, each property should be assessed at the same percent of full value.

Sec. 3. Convening of commission. When the appointment of all commission members is completed, the Chair of the Legislative Council shall call the first meeting. The first meeting shall be called on or before August 1, 1989. At the first meeting, the members shall elect a chair and other officers.

Sec. 4. Report. The commission shall present its findings, together with any recommended legislation, to the Second Regular Session of the 114th Legislature.

Sec. 5. Staff; compensation. The commission may request necessary staff assistance from the Legislative Council. The members of the commission who are Legislators shall receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for days in attendance at commission meetings and subcommittee meetings. All members of the commission shall receive reimbursement for expenses upon application to the Executive Director of the Legislative Council.

Sec. 6. Allocation. The following funds are allocated from the Property Tax Relief Reserve Fund to carry out the purposes of this Part.

1989-90

LEGISLATURE

Study Commissions - Funding

Personal Services	\$1,650
All Other	5,450
Provides funding for the Commission to Study Problems with Municipal Assessment, Valuation and Collection of Property Taxes.	

LEGISLATURE

TOTAL \$7,100

TOTAL ALLOCATIONS - PART D \$7,100

PART E

Sec. 1. 20-A MRSA §2, sub-§3, as enacted by PL 1987, c. 821, is amended to read:

3. Mandated programs. Any legislation containing a state mandate enacted by the Legislature after January 1, 1989, which requires additional funding, shall contain provisions for full funding by the State ~~for 2 years, after which the legislation shall contain full funding through the School Finance Act of 1985, as amended.~~ The funding require-

ments to implement the mandate must be identified. Any such legislation for which full state funding is not provided may not be enacted.

State mandates are defined as any state-initiated or statutory action that requires a local school administrative unit to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state court or any legislation necessary to comply with a federal mandate.

This chapter is repealed on June 30, 1992, unless reviewed and extended by specific Act of the Legislature.

Sec. 2. 20-A MRSA §6004, sub-§2, ¶C is enacted to read:

C. For the purposes of section 15612, subsection 12 only, a student who is eligible to receive a free or reduced price meal under the National School Lunch Program shall be counted as 1.2 students.

Sec. 3. 20-A MRSA §15612, sub-§12 is enacted to read:

12. Low-income student adjustment; legislative intent. A school administrative unit that receives less than the statewide average subsidy of 56.65% shall be eligible for a low-income student adjustment. Funds received by the unit shall be used to reduce property tax collections required by the unit to meet its local share of education costs.

A. A unit that receives between 0% and 24.99% state subsidy shall receive an adjustment equal to \$100 times the student count as adjusted by section 6004, subsection 2, paragraph C.

B. A unit that receives between 25% and 44.99% state subsidy shall receive an adjustment equal to \$50 times the student count as adjusted by section 6004, subsection 2, paragraph C.

C. A unit that receives between 45% and 56.65% state subsidy shall receive an adjustment equal to \$25 times the student count as adjusted by section 6004, subsection 2, paragraph C.

Sec. 4. Allocation. The following funds are allocated from the Property Tax Relief Reserve Fund to carry out the purposes of this Part.

1989-90 1990-91

EDUCATIONAL AND CULTURAL SERVICES, DEPARTMENT OF

Management Information Division

Block Grants to Municipalities - Low-income Student Adjustment

All Other \$5,523,000 \$5,523,000

EDUCATIONAL AND CULTURAL SERVICES, DEPARTMENT OF		
TOTAL	<u>\$5,523,000</u>	<u>\$5,523,000</u>
TOTAL ALLOCATIONS - PART E	\$5,523,000	\$5,523,000

PART F

30-A MRSA §5683 is enacted to read:

§5683. Property tax relief

1. Scope. This section establishes a revenue-sharing program that distributes surplus funds from the General Fund during times of prosperity to municipalities experiencing an inordinate amount of growth. The revenue-sharing funds are specifically dedicated to assisting these municipalities in meeting the unusually high costs associated with the capital construction and infrastructure necessary to accommodate growth and development.

2. Definitions. For the purposes of computing the revenue distributions from the Property Tax Relief Fund, the following terms have the following meanings.

A. "Population" means the population as determined by the latest federal decennial census or the population as determined and certified by the Department of Human Services, whichever is more recent. For the purposes of this section, the department is authorized and required to determine the population of each municipality at least once every year.

3. Property Tax Relief Fund established. There is established the Property Tax Relief Fund for the purpose of distributing unanticipated surplus revenues accruing in the General Fund to municipalities experiencing high rates of population growth. The purpose of the fund is to assist municipalities in meeting their infrastructure needs.

The State Controller shall at the close of each fiscal year transfer from the unappropriated surplus of the General Fund to the Property Tax Relief Fund an amount not to exceed 1/2 of the balance remaining after all other required transfers have been made from the excess of total General Fund revenues received over accepted estimates in that fiscal year.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount equal to 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

The fund shall not exceed \$25,000,000 and shall not lapse, but shall remain a continuing carrying account to carry out the purpose of this section.

4. Distributions from Property Tax Relief Fund. Money credited to the Property Tax Relief Fund shall be distributed to each municipality in an amount equal to the ratio of the population in each municipality to the population in the State as a whole.

5. Restrictions on use of funds. Funds distributed to municipalities pursuant to this section shall be expended only after the municipal legislative body has authorized the expenditure in the annual municipal budget. Funds shall be expended only for the following purposes:

A. For capital construction and improvements, land acquisitions, capital equipment acquisitions or other nonrecurring purposes;

B. For purposes for which bonds have been previously authorized but not yet issued, in order to eliminate the need to incur the indebtedness; and

C. For the local share of state, federal or privately financed capital construction and improvement projects.

6. Treasurer of State. The Treasurer of State shall distribute the balance in the Property Tax Relief Fund as of July 1, 1989, on or before September 15, 1989, and thereafter the balance in the fund on July 1st of each year shall be distributed on or before September 15th of each following year.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1989, except as otherwise indicated.

Effective July 1, 1989, unless otherwise indicated.

CHAPTER 535

H.P. 534 - L.D. 731

An Act to Amend the Definition of Employer to Include Governmental Entities

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

26 MRSA §592, as amended by PL 1985, c. 112, §2, is further amended to read:

§592. Charge by employer prohibited

No employer may require any employee or accepted applicant for employment to bear the medical expense of an examination when that examination is ordered or required by the employer. No employer may require any employee or ~~accepted~~ accepted applicant for employment to bear the expense of an eye examination ordered or required by the employer which is performed by a person licensed to perform the examinations, except that if an employer orders or requires the eye examination to be performed by a specific type of eye care provider, or specific provider, the employer must