

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

CHAPTER 711

H.P. 1001 - L.D. 1390

An Act to Ensure that Child Support Payments Benefit the Family

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

Sec. 1. 19 MRSA §498, sub-§3, as amended by PL 1985, c. 652, §26, is further amended to read:

3. Action upon failure to appear. If the responsible parent fails to appear at the hearing on the date specified by the notice of debt, the hearing officer shall enter a decision pursuant to subsection 4, paragraph B. Within ~~30 days~~ one year of service of the decision, the responsible parent may petition the department to vacate the decision if the responsible parent ~~can show any grounds which would permit relief from judgment in a civil action~~ shows good cause.

Sec. 2. 19 MRSA §498-A, sub-§3, as repealed and replaced by PL 1989, c. 337, §4, is amended to read:

3. Action upon failure to appear. If the responsible parent fails to appear at the hearing on the date specified by the notice of debt, the hearing officer shall enter a decision pursuant to subsection 4, paragraph B. Within ~~30 days~~ one year of service of the decision, the responsible parent may petition the department to vacate the decision if the responsible parent ~~can show any grounds which permit relief from judgment in a civil action~~ shows good cause.

See title page for effective date.

CHAPTER 712

H.P. 1367 - L.D. 1884

An Act to Improve Maine Occupational Safety and Health Provisions

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

26 MRSA §565, as amended by PL 1977, c. 694, §461, is further amended to read:

§565. Powers and duties of board

The board shall formulate and adopt reasonable rules ~~and regulations~~, pursuant to Title 5, ~~section 8051 et seq. chapter 375, subchapter II~~, for safe and healthful working conditions, including rules requiring the use of personal protective equipment, monitoring and record keeping. The rules ~~and regulations~~ so formulated shall at a minimum conform ~~as far as practicable~~ to nationally recognized federal standards of occupational safety and

health, so that the state program can be federally approved as a public employee only occupational safety and health program. ~~Such These rules and regulations shall not become effective sooner than 90 days after the date of their adoption and promulgation.~~

See title page for effective date.

CHAPTER 713

H.P. 1620 - L.D. 2242

An Act to Implement Changes for the Deferred Collection of Homestead Property Taxes

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

Whereas, delay in the implementation of changes to the laws pertaining to the deferred collection of homestead taxes may result in unnecessary burdens on taxpayers and local property tax administrators; 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:

Sec. 1. 36 MRSA §6250, sub-§1, as enacted by PL 1989, c. 534, Pt. C, §1, is repealed.

Sec. 2. 36 MRSA §6251, sub-§1, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

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 ~~45~~ 30 days of receipt, which shall determine if the property is eligible for deferral.

Sec. 3. 36 MRSA §6251, sub-§6, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

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 file an appeal in the manner of the State Tax Assessor's determination, within 30 days of notification of denial or disqualification by the State Tax Assessor, with the State Board of Property Tax Review as provided in chapter 101, subchapter II-A.

Sec. 4. 36 MRSA §6254, as enacted by PL 1989, c. 534, Pt. C, §1, is repealed and the following enacted in its place:

§6254. State liens against tax-deferred property

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

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

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

At the time of the recording of the tax lien certificate in the registry of deeds, the State Tax Assessor shall send by certified mail, return receipt requested, to each record holder of a mortgage on the real estate, to the holder's last known address, a true copy of the tax lien certificate. The cost to be paid by the property owner, or the owner's heirs or devisees, is the sum of the fees for recording and discharging of the lien as established by Title 33, section 751, subsection 10, plus \$13. Upon redemption, the State Tax Assessor shall prepare and record a discharge of the tax lien mortgage. The lien described in section 552 is the basis of this tax lien mortgage procedure.

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

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

2. Foreclosure. If the mortgage, including interest and costs, is not paid within 12 months of the date on which the certificate was filed in the registry of deeds, as provided in this section, the mortgage is deemed foreclosed and the right of redemption expired.

2-A. Inventory. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. Whenever the State acquires title to real estate, the State Tax Assessor shall cause an inventory to be made of all such real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any information necessary to the administration and supervision of the real estate. The State Tax Assessor shall report annually to the Legislature not later than 15 days after the Legislature convenes. The report must contain a copy of the inventory of real estate then owned by the State and the recommendations for the disposition of this real estate that the State Tax Assessor makes.

2-B. Sale; legislative authorization. After authorization by the Legislature, the State Tax Assessor shall, sell or convey any such real estate, but shall in all cases of sales, except sales to former owners of the real estate, give public notice of the proposal to sell the real estate and shall ask for competitive bids and sell to the highest bidder with the right of rejecting all bids. Sales of any such real estate may not be made by the State Tax Assessor except by authorization of the Legislature.

The supervision, administration, utilization and vindication of the right of the State in any such real estate is vested in the State Tax Assessor until the title is conveyed or otherwise disposed of by the Legislature.

3. Foreclosure receipts. Following the sale by the State Tax Assessor of real property acquired through the tax lien certificate procedure outlined in this chapter, all claims of the State evolving from the homestead property tax exemption are satisfied, as well as any tax delinquencies relative to the property in question in the municipality where located. The residual amount resulting from the sale of the property is to be returned to the former owner or to the owner's heirs or devisees.

Sec. 5. 36 MRSA §6256, sub-§§1 and 2, as enacted by PL 1989, c. 534, Pt. C, §1, are amended to read:

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~~ must contain a description of the property as listed ~~on the assessment roll in the municipal valuation~~ together with the name of the owner listed ~~thereon on the valuation~~. The list ~~shall~~ must be corrected ~~each time an additional deferral occurs or~~ annually to reflect the addition or deletion of deferred properties as well as 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~~ register of deeds in connection with the recording, release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

Sec. 6. 36 MRSA §6257, sub-§1, as enacted by PL 1989, c. 534, Pt. C, §1, is repealed and the following enacted in its place:

1. Payment of deferred taxes. Within 30 days of the receipt of information from a municipal tax collector concerning the amount of deferred property taxes in the respective municipality, the State Tax Assessor shall certify that amount to the Treasurer of the State who shall make payment on or before the 15th day of the following month.

Sec. 7. 36 MRSA §6258, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

§6258. Annual notice to taxpayer

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~~ must:

- 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.

Sec. 8. 36 MRSA §6264, sub-§2, as enacted by PL 1989, c. 534, Pt. C, §1, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 23, 1990.

CHAPTER 714

S.P. 887 - L.D. 2263

An Act Related to the Provision of Care for Adults with Long-term Needs

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

22 MRSA §7307 is enacted to read:

§7307. Relatives as providers

The department may not refuse to pay a relative of an adult with long-term care needs for the provision of in-home and community support services or personal care assistance services if the relative is qualified to provide the service and the payment is not prohibited by federal law or regulation.

See title page for effective date.

CHAPTER 715

S.P. 723 - L.D. 1898

An Act Related to Smoking in Facilities for the Mentally Ill

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

Whereas, in November 1989 the State put into effect a law banning smoking in hospitals; and

Whereas, for some individuals living in the State's mental health institutes, this effectively prohibits smoking in their home; and

Whereas, this could mean an increase in the need to institute seclusion and restraint procedures as smoking patients are deprived of their right to smoke; and