

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**  
**July 29, 2005**

**SECOND REGULAR SESSION**  
**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 23, 2006**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2006**

## CHAPTER 618

S.P. 668 - L.D. 1751

An Act Concerning Technical  
Changes to the Tax Laws

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

**Sec. 1. 36 MRSA §1752, sub-§6-C** is enacted to read:

**6-C. Manufactured housing.** "Manufactured housing" has the same meaning as defined in Title 10, section 9002, subsection 7.

**Sec. 2. 36 MRSA §1760, sub-§23-C**, as affected by PL 2003, c. 614, §9 and amended by c. 688, Pt. B, §12 and affected by §13, is further amended to read:

**23-C. Certain vehicles purchased or leased by nonresidents.** Sales or leases of the following vehicles to a nonresident if the vehicle is intended to be driven or transported outside the State immediately upon delivery:

A. Motor vehicles, except ~~automobiles rented for a period of less than one year, all terrain vehicles and snowmobiles as defined in Title 12, section 13001;~~

(1) Automobiles rented for a period of less than one year; and

(2) All-terrain vehicles and snowmobiles as defined in Title 12, section 13001;

B. Semitrailers;

C. Aircraft; and

~~D. Truck bodies and trailers manufactured in the State; and~~

E. Camper trailers, including truck campers.

If the vehicles are registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

Notwithstanding section 1752-A, for purposes of this subsection, the term "nonresident" may include an individual, an association, a society, a club, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, a domestic or foreign corporation and any other legal entity.

**Sec. 3. 36 MRSA §1760, sub-§40**, as repealed and replaced by PL 1987, c. 497, §37, is amended to read:

**40. Manufactured housing.** Sales of ~~mobile or modular homes~~ includes:

A. ~~Used mobile and modular homes~~ manufactured housing; and

B. ~~New mobile and modular homes. Exemption is limited~~ manufactured housing to the extent of all costs, other than materials, included in the sale price, but the exemption may not exceed 50% of the sale price.

**Sec. 4. 36 MRSA §1952-B**, as amended by PL 1991, c. 846, §26, is further amended to read:

**§1952-B. Manufactured housing**

The tax imposed by ~~chapters 211 to 225~~ this Part on the sale or use of ~~any type of~~ manufactured housing, ~~as defined in Title 30-A, section 4358, subsection 1, paragraph A,~~ except when the dealer has collected the tax in full, must be paid by the purchaser to the State Tax Assessor. ~~The State Tax Assessor~~ assessor shall provide a tax receipt to the purchaser, ~~which, upon~~ Upon request by the municipal officials, ~~assessors of a plantation or the Maine Land Use Regulation Commission,~~ the receipt must be made available by the purchaser to certify that the tax ~~imposed by chapters 211 to 225~~ has been paid, pursuant to Title 30-A, section 4358, subsection 4 or Title 30-A, section 7060, subsection 1, paragraph C.

A valid bill of sale from a dealer showing that the tax has been collected in full serves to certify that the tax ~~imposed by chapters 211 to 225~~ has been paid, pursuant to Title 30-A, section 4358, subsection 4, or Title 30-A, section 7060, subsection 1, paragraph C, in lieu of a tax receipt provided by the ~~State Tax Assessor~~ assessor.

**Sec. 5. 36 MRSA §4064, first ¶**, as amended by PL 2005, c. 218, §42, is further amended to read:

A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies prior to January 1, 2002 or after December 31, 2002 and who at the time of death was not a resident of this State. When real or tangible personal property has been transferred into a trust or a limited liability company or other pass-through entity, the tax imposed by this section applies as if the trust or limited liability company or other pass-through entity did not exist and the property was personally owned by the decedent. Maine property is subject to the tax imposed by this section to the extent that such property is either included in the decedent's federal gross estate or is

Maine elective property. The amount of this tax is a sum equal to that proportion of the federal credit that the value of the decedent's Maine real and tangible personal property in this State bears to the value of the decedent's federal gross estate. All property values under this section are as finally determined for federal estate tax purposes, except that for estates of decedents dying after December 31, 2002 that do not incur a federal estate tax, all property values are as finally determined by the assessor in accordance with the Code as if the estate had incurred a federal estate tax. The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property.

**Sec. 6. 36 MRSA §5200, sub-§1,** as enacted by PL 2005, c. 457, Pt. FFF, §1 and affected by §2, is amended to read:

**1. Imposition and rate of tax.** A tax is imposed for each taxable year at the following rates on each taxable corporation ~~or~~ and on each group of corporations that derives income from a unitary business carried on by 2 or more members of an affiliated group:

If the <del>Maine</del> income is:	The tax is:
Not over \$25,000	3.5% of <del>Maine</del> <u>the</u> income
\$25,000 but not over \$75,000	\$875 plus 7.93% of <u>the</u> excess over \$25,000
\$75,000 but not over \$250,000	\$4,840 plus 8.33% of <u>the</u> excess over \$75,000
\$250,000 or more	\$19,418 plus 8.93% of <u>the</u> excess over \$250,000

In the case of an affiliated group of corporations engaged in a unitary business with activity taxable only by Maine, the rates provided in this subsection are applied only to the first \$250,000 of the Maine net income of the entire group and must be apportioned equally among the taxable corporations unless those taxable corporations jointly elect a different apportionment. The balance of the Maine net income of the entire group is taxed at 8.93%.

In the case of an affiliated group of corporations engaged in a unitary business with activity taxable both within and without this State, the rates provided in this subsection are applied only to the first \$250,000

of the net income of the entire group and must be apportioned equally among the taxable corporations unless those taxable corporations jointly elect a different apportionment. The balance of the net income of the entire group is taxed at 8.93%.

**Sec. 7. 36 MRSA §5203-C, sub-§1, ¶D,** as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

D. "Exemption amount" means the applicable exemption as provided by the Code, Section 55(d) as of December 31, 2002, except that tentative alternative minimum taxable income as determined under paragraph ~~H~~ G must be substituted in the computation of the phase-out under the Code, Section 55(d)(3).

**Sec. 8. 36 MRSA §5203-C, sub-§4, ¶A,** as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

A. A minimum tax credit is allowed against the liability arising under this Part for any taxable year other than withholding tax liability. The minimum tax credit equals the excess, if any, of the adjusted alternative minimum tax, reduced by the credit for tax paid to other jurisdictions determined under subsection 3 and the Pine Tree Development Zone tax credit provided by section 5219-W, that was imposed for all prior taxable years beginning after 2003 over the amount allowable as a credit under this subsection for such prior taxable years, plus unused minimum tax credits from years beginning after 1990.

**Sec. 9. 36 MRSA §5206-D, sub-§9,** as enacted by PL 1997, c. 404, §5 and affected by §10, is amended to read:

**9. Loan.** "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of the extension of credit from another. ~~Loans include~~ "Loan" includes participations, syndications and leases treated as loans for federal income tax purposes. ~~Loans do~~ "Loan" does not include properties treated as loans under the Code, Section 595 as of December 31, 1995; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; noninterest-bearing balances due from depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a REMIC or other mortgage-backed or asset-backed security; and other similar items.

**Sec. 10. 36 MRSA §5219-D,** as amended by PL 1997, c. 504, §17, is repealed.

**Sec. 11. 36 MRSA §5219-Q, sub-§1, ¶A**, as enacted by PL 1999, c. 401, Pt. NNN, §6 and affected by §§8 and 9 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

A. Is accredited by an independent, nationally recognized program approved by the Department of Health and Human Services, Office of ~~Head Start and Child Care~~ and Head Start;

**Sec. 12. 36 MRSA §5219-Q, sub-§1, ¶B**, as enacted by PL 1999, c. 401, Pt. NNN, §6 and affected by §§8 and 9 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

B. Utilizes recognized quality indicators for child care services approved by the Department of Health and Human Services, Office of ~~Head Start and Child Care~~ and Head Start; and

**Sec. 13. 36 MRSA §5219-Q, sub-§1-A**, as enacted by PL 1999, c. 708, §47 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**1-A. Certification.** Upon application by an investor, the Department of Health and Human Services, Office of ~~Head Start and Child Care~~ and Head Start shall certify if an investment in a child care site contributed significantly toward the ability of the child care site to improve its level of child care services toward the goal of providing quality child care services. The department shall send a list of taxpayers making certified investments in the previous year to the State Tax Assessor by February 1st annually.

**Sec. 14. 36 MRSA §5220, sub-§3**, as amended by PL 2003, c. 391, §11 and affected by §14, is further amended to read:

**3. Resident estates or trusts.** Every resident estate or trust that has for the taxable year:

A. Any Maine taxable income as defined in section 5163; ~~or~~

B. Gross income of \$10,000 or more, regardless of the amount of Maine taxable income; or

C. A Maine income tax liability pursuant to this Part;

**Sec. 15. 36 MRSA §5220, sub-§4**, as amended by PL 2003, c. 391, §11 and affected by §14, is further amended to read:

**4. Certain nonresident estates or trusts.** Every nonresident estate or trust that has for the taxable year:

A. Any Maine taxable income as determined under section 5175, subsection 2; ~~or~~

B. Gross income of \$10,000 or more, regardless of the amount of Maine taxable income; or

C. A Maine income tax liability pursuant to this Part;

**Sec. 16. 36 MRSA §5255**, as amended by PL 1985, c. 535, §26, is further amended to read:

**§5255. Failure to withhold**

~~If a~~ A person who fails to deduct and withhold tax as required, ~~and thereafter~~ by this chapter is relieved from liability for that tax to the extent that the tax against which such tax may be credited is has been paid, the tax so required to be deducted and withheld shall not be collected from the person, but the person ~~shall~~ is not be relieved from liability for any additions to tax, penalties or interest otherwise applicable ~~in~~ with respect to ~~such~~ the failure to deduct and withhold tax as required by this chapter.

**Sec. 17. 36 MRSA §6201, sub-§9**, as amended by PL 2005, c. 457, Pt. EEE, §1 and affected by §2, is further amended to read:

**9. Income.** "Income" means the sum of Maine adjusted gross income determined in accordance with Part 8; contributions, including catch-up contributions, to any pension, annuity or retirement plan to the extent not included in Maine adjusted gross income, including contributions to an individual retirement account under Section 408 of the Code, a simplified employee pension plan, a salary reduction simplified employee pension plan, a savings incentive match plan for employees plan and a deferred compensation plan under Section 457 of the Code, and cash or deferred arrangements under Section 401 of the Code and qualified, or "Keogh," accounts; nontaxable contributions to a flexible spending arrangement under Section 125 of the Code; amounts excluded from gross income under ~~Sections 125 and Section~~ 129 of the Code; distributions from ROTH IRAs; the amount of capital gains excluded from adjusted gross income; the absolute value of the amount of trade or business loss, net operating loss carry-over, capital loss, rental loss, farm loss, partnership or S Corporation loss included in adjusted gross income; alimony; inheritance; life insurance proceeds paid on death of insured; nontaxable lawsuit rewards, such as slander, libel and pain and suffering, excluding reimbursements such as medical and legal expenses associated with the case; support money; nontaxable strike benefits; the gross amount of any pension or annuity, including railroad retirement benefits; all payments received under the federal Social Security Act and state unemployment insurance laws; veterans' disability pensions; nontaxable interest received from the Federal Government or any of its instrumentalities; interest or dividends on obligations or securities of this State and its political

subdivisions and authorities; workers' compensation and the gross amount of "loss of time" insurance; and cash public assistance and relief, but not including relief granted under this chapter. "Income" does not include the first \$5,000 ~~in the~~ of proceeds from a life insurance policy, whether paid in a lump sum or in the form of an annuity. "Income" does not include a rollover from an individual retirement account, pension or annuity fund or plan to an individual retirement account, pension or annuity fund or plan even if the amount of the rollover is includable in Maine adjusted gross income. "Income" also does not include gifts from nongovernmental sources or surplus foods or other relief in kind supplied by a governmental agency.

**Sec. 18. 36 MRSA §6201-A**, as enacted by PL 1989, c. 534, Pt. A, §4, is amended to read:

**§6201-A. Short title**

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

**Sec. 19. 36 MRSA §6652, sub-§1**, as amended by PL 2005, c. 457, Pt. BBB, §1, is further amended to read:

**1. Generally.** A person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of those taxes from the State as provided in this chapter. The reimbursement under this chapter is 100% of the taxes assessed and paid with respect to eligible property, except that for claims filed for the application period that begins on August 1, 2006 the reimbursement is 90% of the taxes assessed and paid with respect to eligible property. For purposes of this chapter, a tax applied as a credit against a tax assessed pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. Eligible property is subject to reimbursement pursuant to this chapter for up to 12 property tax years, but the 12 years must be reduced by one year for each year during which a taxpayer included the same property in its investment credit base under section ~~5219-D~~, 5219-E or 5219-M and claimed the credit provided in one or more of those sections on its income tax return, and reimbursement may not be made for taxes assessed in a year in which one or more of those credits is taken. A successor in interest of a person against whom taxes have been assessed with respect to eligible property is entitled to reimbursement pursuant to this section, whether the tax was paid by the person assessed or by the successor, as long as a transfer of the property in question to the successor has occurred and the successor is the owner of the property as of August

1st, of the year in which a claim for reimbursement may be filed pursuant to section 6654. For purposes of this paragraph, "successor in interest" includes the initial successor and any subsequent successor. When an eligible successor in interest exists, the successor is the only person to whom reimbursement under this chapter may be made with respect to the transferred property.

**Sec. 20. 36 MRSA §6656**, as amended by PL 2005, c. 12, Pt. BBB, §4, is repealed and the following enacted in its place:

**§6656. Payment of claims**

**1. Reimbursement claim.** Notwithstanding any other provision of law, except as provided in section 6652 and section 6662, upon receipt of a timely and properly completed claim for reimbursement, the State Tax Assessor shall certify that the claimant is eligible for reimbursement under this chapter. The assessor shall determine the benefit for each claimant and shall certify to the State Controller the amounts to be transferred to the Business Equipment Tax Reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the individual income tax category.

**2. Pay certified amounts.** The assessor shall pay the certified amounts to each approved applicant that qualifies for the benefit under this chapter by November 1st or within 90 days after receipt of the claim, whichever is later. For those claims for which payments are withheld pursuant to section 6652, subsection 3, and with respect to which the assessor receives notification under that subsection that the report has been received, reimbursement must be paid by November 1st or within 90 days after the assessor receives the notification, whichever is later. Interest is not allowed on any payment made to a claimant pursuant to this chapter.

**Sec. 21. 38 MRSA §2201, last ¶**, as amended by PL 2001, c. 315, §5, is further amended to read:

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the office's and the department's programs, including actions by the department necessary to abate threats to public health, safety and welfare posed by the disposal of solid waste. Funds related to operations may be expended only in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the office and for the repayment of any obligations of the office incurred under article 3. These allocations must be based on

estimates of the actual costs necessary for the office and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of ~~Taxation Revenue Services~~ incurred in the administration of ~~Title 36, section 5219-D~~ and Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all office activities other than those included in the operations account.

**Sec. 22. Application.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 4064 applies to the estates of decedents who die on or after January 1, 2005. That section of this Act that amends Title 36, section 5200, subsection 1 applies retroactively to tax years beginning on or after January 1, 2005. Those sections of this Act that amend Title 36, section 5203-C, subsection 1, paragraph D and subsection 4, paragraph A apply retroactively to tax years beginning on or after January 1, 2004. Those sections of this Act that amend Title 36, section 5220, subsections 3 and 4 apply retroactively to tax years beginning on or after January 1, 2003. That section of this Act that amends Title 36, section 6201, subsection 9 applies to claims for benefits under the Maine Residents Property Tax Program filed for application periods that begin on or after August 1, 2005. That section of this Act that repeals and replaces Title 36, section 6656 applies to property tax years beginning on or after April 1, 2004.

See title page for effective date.

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## CHAPTER 619

H.P. 1477 - L.D. 2089

### An Act To Amend the Laws Governing Home Construction Contracts To Increase Consumer Awareness

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

**Sec. 1. 10 MRSA §1487, sub-§11**, as amended by PL 1989, c. 193, §1, is further amended to read:

**11. Residential insulation.** If the construction includes installation of insulation in an existing residence, any disclosures required by chapter 219, Insulation Contractors; ~~and~~

**Sec. 2. 10 MRSA §1487, sub-§12**, as enacted by PL 1989, c. 193, §2, is further amended to read:

**12. Energy standards.** A statement by the contractor that chapter 214 establishes minimum energy efficiency building standards for new residential construction, and whether the new building or an addition to an existing building will meet or exceed those standards;

**Sec. 3. 10 MRSA §1487, sub-§13** is enacted to read:

**13. Consumer protection information.** As an addendum to the contract, a copy of the Attorney General's consumer protection information on home construction and repair, which includes information on contractors successfully sued by the State, as provided on the Attorney General's publicly accessible website; and

**Sec. 4. 10 MRSA §1487, sub-§14** is enacted to read:

**14. Attorney General's publicly accessible website.** A clear and conspicuous notice that states that consumers are strongly advised to visit the Attorney General's publicly accessible website to gather current information on how to enforce their rights when constructing or repairing their homes, as well as the Attorney General's publicly accessible website address and telephone number.

**Sec. 5. Review.** The Attorney General and the Criminal Law Advisory Commission, pursuant to the Maine Revised Statutes, Title 17-A, section 1351, shall review the provisions of the Maine Criminal Code that are available to prosecute home building and improvement contractors that engage in deceptive and fraudulent business practices and determine whether any changes in the criminal code are appropriate. The Attorney General and the Criminal Law Advisory Commission shall submit any proposed changes to the criminal code to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters as well as the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by February 1, 2007.

**Sec. 6. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 10, section 1487, subsections 11 and 12 and enact subsections 13 and 14 take effect September 1, 2006.

See title page for effective date, unless otherwise indicated.

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