

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 29, 2013**

**SECOND REGULAR SESSION**  
**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**EMERGENCY LAW IS**  
**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2014**

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

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**Augusta, Maine**  
**2014**

(a) The inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee; or

(b) An institution of higher education or a technology transfer organization whose primary purpose is to facilitate the commercialization of technologies developed by an institution of higher education that is owned by or affiliated with an institution of higher education; and

(6) The person demonstrated good faith business practices in previous efforts to enforce the patent or a substantially similar patent or successfully enforced the patent or a substantially similar patent through litigation.

**4. Remedies.** The court may award the following remedies to a target who prevails in an action brought pursuant to this subsection:

A. Equitable relief;

B. Damages;

C. Costs and fees, including reasonable attorney's fees; and

D. Punitive damages in an amount equal to \$50,000 or 3 times the total damages, costs and fees, whichever is greater.

**5. Action by Attorney General.** The Attorney General may bring an action to enjoin a violation of this chapter. Any violation of this chapter is a violation of the Maine Unfair Trade Practices Act.

**6. Bond.** When a target reasonably believes a person made a bad faith assertion of patent infringement against the target, the target may file a motion with the court to require the person to post a bond. If the court finds the target has established a reasonable likelihood that the person made a bad faith assertion of patent infringement, the court shall require the person to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim and amounts reasonably likely to be recovered under subsection 4. The court shall hold a hearing if requested by either party. A bond ordered pursuant to this subsection may not exceed \$250,000. The court may waive the bond requirement if it finds the person has available assets equal to the amount of the proposed bond or for other good cause shown.

**7. Exemption.** This section does not apply to a demand letter or assertion of patent infringement that includes a claim for relief arising under 35 United States Code, Section 271(e)(2) or 42 United States Code, Section 262.

## **§8702. Rules**

The Attorney General shall adopt rules implementing this chapter. Evidence of a violation of a rule adopted by the Attorney General constitutes prima facie evidence of a bad faith assertion of patent infringement in any action brought under this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

## **CHAPTER 544**

### **S.P. 618 - L.D. 1627**

#### **An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption**

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

**Whereas**, changes made by the First Regular Session of the 126th Legislature to the business equipment tax exemption program will affect the reporting of information by taxpayers beginning April 1, 2014; and

**Whereas**, some of the information that taxpayers claiming an exemption under the program are required to report is proprietary information that could subject the taxpayers to financial harm if released publicly; and

**Whereas**, this legislation protects that proprietary information and needs to take effect as soon as possible to prevent harm to businesses; 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 §693, sub-§1**, as amended by PL 2013, c. 368, Pt. O, §7 and affected by §12 and c. 385, §§2 and 3, is further amended to read:

**1. Reporting.** On or before May 1st of each year, a taxpayer claiming an exemption under this section shall file a report with the assessor of the taxing jurisdiction in which the property would otherwise be subject to taxation on April 1st of that year. The report must identify the property for which exemption is

claimed that would otherwise be subject to taxation on April 1st of that year and must be made on a form prescribed by the State Tax Assessor or substitute form approved by the State Tax Assessor. ~~When the valuation of all property assessed to the taxpayer exceeds 2% of the total taxable valuation of the municipality for the prior tax year, the report must also include sufficient information, including income and expense information as necessary, to allow the assessor to determine the just value of the property owned by the taxpayer that is claiming the exemption as well as the property exempted under this subchapter.~~ The State Tax Assessor shall furnish copies of the form to each municipality in the State and the form must be made available to taxpayers prior to April 1st annually. The assessor of the taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth. If the report is not filed by April 1st, the filing deadline is automatically extended to May 1st without the need for the taxpayer to request or the assessor to grant that extension. Upon written request, the assessor may at any time grant further extensions of time to file the report. If a taxpayer fails to file the report in a timely manner, including any extensions of time, the taxpayer may not obtain an exemption for that property under this subchapter for that tax year. The assessor of the taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable inquiries as to the property for which exemption is requested. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. The answer to any such inquiry is not binding on the assessor.

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

~~If the taxpayer fails to provide sufficient information as may be required under this subsection, the taxpayer may not obtain an exemption under this subchapter for that tax year.~~

**Sec. 2. 36 MRSA §693, sub-§4**, as enacted by PL 2013, c. 368, Pt. O, §8 and affected by §12 and c. 385, §§2 and 3, is repealed.

**Sec. 3. 36 MRSA §694, sub-§1**, as amended by PL 2013, c. 368, Pt. O, §9 and affected by §12 and c. 385, §§2 and 3, is further amended to read:

**1. Examination and identification.** The assessor shall examine each report pursuant to section 693 that is timely filed, determine whether the property identified in the report is entitled to an exemption under this subchapter and determine the just value of the property. ~~The assessor also shall certify to the State Tax Assessor that the taxpayer has provided sufficient information necessary for the proper valuation of the property and that the assessor has considered that information in the valuation and exemption determinations. Failure to provide this certification to the State Tax Assessor disqualifies the municipality from reimbursement pursuant to subsection 2, paragraphs B and C.~~

**Sec. 4. 36 MRSA §694, sub-§2, ¶B**, as amended by PL 2013, c. 368, Pt. O, §10 and affected by §12 and c. 385, §§2 and 3, is further amended to read:

B. In the case of a municipality that chooses reimbursement under this paragraph in which the personal property factor exceeds 5%, the applicable percentage for exempt business equipment is 50% plus an amount equal to 1/2 of the personal property factor. For purposes of this paragraph, "personal property factor" means the percentage derived from a fraction, the numerator of which is the value of business personal property in the municipality, whether taxable or exempt, and the denominator of which is the value of all taxable property in the municipality plus the value of exempt business equipment. For purposes of this paragraph, the taxable value of exempt business equipment is the value that would have been assessed on that equipment if it were taxable. ~~In order to obtain the reimbursement under this paragraph on or after April 1, 2014, the municipality must provide to the State Tax Assessor a report providing an appraisal of the exempt business equipment of all taxpayers whose equalized municipal valuation makes up at least 2% of the overall equalized valuation of the municipality. The appraisal report must include a summary of the appraiser's consideration of the cost, income capitalization and sales comparison approaches to the valuation of property. The appraisal must determine a value for the property within the 5 years prior to the date of the claim and must be prepared by a qualified professional appraiser, as defined in section 208-A. This appraisal must be the basis on which the property is assessed for municipal property tax purposes.~~

**Sec. 5. 36 MRSA §706**, as amended by PL 1981, c. 30, §§1 and 2, is further amended to read:

**§706. Taxpayers to list property, notice, penalty, verification**

Before making an assessment, the assessor or assessors, the chief assessor of a primary assessing area or the State Tax Assessor in the case of the unorganized territory may give seasonable notice in writing to all persons liable to taxation or qualifying for exemption pursuant to subchapter 4-C in the municipality, primary assessing area or the unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax Assessor true and perfect lists of all their estates, not by law exempt from taxation, of which they were possessed on the first day of April of the same year.

The notice to owners may be by mail directed to the last known address of the taxpayer or by any other method that provides reasonable notice to the taxpayer.

If notice is given by mail and the taxpayer does not furnish the list, ~~he the taxpayer~~ is barred of ~~his the~~ right to make application to the assessor or assessors, chief assessor or State Tax Assessor or any appeal ~~therefrom from an application~~ for any abatement of ~~his those~~ taxes, unless ~~he the taxpayer~~ furnishes the list with ~~his the~~ application and satisfies ~~them the~~ assessing authority or authority to whom an appeal is made that ~~he the taxpayer~~ was unable to furnish ~~the list~~ at the time appointed.

The assessor or assessors, chief assessor or State Tax Assessor may require the person furnishing the list to make oath to its truth, which oath any of them may administer, ~~and may require him to answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed in the State; and a refusal or neglect to answer such inquiries and subscribe the same bars an appeal, but such list and answers shall not be conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor.~~

The assessor or assessors, chief assessor or State Tax Assessor may require the taxpayer to answer in writing all proper inquiries as to the nature, situation and value of the taxpayer's property liable to be taxed in the State or subject to exemption pursuant to subchapter 4-C. As may be reasonably necessary to ascertain the value of property according to the income approach to value pursuant to the requirements of section 208-A or generally accepted assessing practices, these inquiries may seek information about income and expenses, manufacturing or operational efficiencies, manufactured or generated sales price trends or other related information. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. Information provided by the taxpayer in response to an inquiry that is proprietary information, and clearly

labeled by the taxpayer as proprietary and confidential information, is confidential and is exempt from the provisions of Title 1, chapter 13. An assessor of the taxing jurisdiction may not allow the inspection of or otherwise release such proprietary information to anyone other than the State Tax Assessor, who shall treat such proprietary information as subject to section 191, subsection 1, except that the exemption provided in section 191, subsection 2, paragraph I does not apply to such proprietary information. As used in this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available and information protected from disclosure by federal or state law or regulations. A person who knowingly violates the confidentiality provisions of this paragraph commits a Class E crime.

A taxpayer's refusal or neglect to answer inquiries bars an appeal, but the answers are not conclusive upon the assessor or assessors, chief assessor or State Tax Assessor.

If the assessor or assessors, chief assessor or the State Tax Assessor fail to give notice by mail, the taxpayer is not barred of ~~his the~~ right to make application for abatement ~~provided that, however,~~ upon demand the taxpayer shall answer in writing all proper inquiries as to the nature, situation and value of ~~his the taxpayer's~~ property liable to be taxed in the State; ~~and a taxpayer's~~ refusal or neglect to answer the inquiries and subscribe the same bars an appeal, but the list and answers ~~shall are~~ not be conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor.

**Sec. 6. PL 2013, c. 368, Pt. O, §11,** as repealed and replaced by PL 2013, c. 385, §1 and amended by §3, is repealed.

**Sec. 7. Application.** This Act applies to property tax years beginning on or after April 1, 2014.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 15, 2014.

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**CHAPTER 545**
**H.P. 1315 - L.D. 1826**

**An Act To Protect the State's  
Authority in Issues Concerning  
Federal Relicensing of Dams  
Located in the State**

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