

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect Elderly Residents from Losing Their Homes Due to Taxes or Foreclosure**

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

### **PART A**

**Sec. A-1. 36 MRSA §6250-A** is enacted to read:

#### **§ 6250-A. Short title**

This chapter may be known and cited as "the Senior Property Tax Deferral Program."

**Sec. A-2. 36 MRSA §6251, sub-§1**, as repealed and replaced by PL 1993, c. 395, §31, is amended to read: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 but no later than April 1st of the first year in which deferral is claimed if:

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

~~B. The individual or, in the case of 2 or more individuals filing a claim jointly, all 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 30 days of receipt and the bureau shall determine if the property is eligible for deferral.

~~Claims from new applicants may not be filed pursuant to this chapter prior to January 1, 1994. For purposes of this section, "new applicants" means any person or persons that have not filed claims prior to April 1, 1991.~~

**Sec. A-3. 36 MRSA §6251, sub-§2**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

**2. Property tax deferral.**~~When the taxpayer elects~~If the taxpayer is determined to be eligible to defer property taxes for any year by filing a claim for deferral under subsection 1, it ~~shall have~~has 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.

**Sec. A-4. 36 MRSA §6253**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

### § 6253. Claim forms; contents

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

A. ~~Describe~~Identify the homestead;

B. ~~Recite facts establishing the~~Establish 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~~Attach any documentary ~~proof~~information required by the bureau to show that the requirements of section 6252 have been met.

**2. Statement verification.** ~~There shall be annexed to the~~The claim must contain 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.~~

**Sec. A-5. 36 MRSA §6255, sub-§3**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

**3. Interest.** Interest ~~shall accrue~~accrues on the actual amount of taxes advanced to the municipality for the tax-deferred property at the rate of 6% per annum. ~~If the State Tax Assessor determines that average residential mortgage rates in the State exceeded 6% for the previous 12 consecutive months and that the interest rate differential creates an incentive for taxpayers to defer taxes primarily because of the lower interest rate provided by this chapter, the State Tax Assessor shall report this fact to the joint standing committee of the Legislature having jurisdiction over taxation matters, which may submit legislation to adjust the interest rate under this subsection.~~

**Sec. A-6. 36 MRSA §6257, sub-§1-A**, as enacted by PL 1991, c. 528, Pt. DD, §1 and affected by Pt. RRR and enacted by c. 591, Pt. DD, §1, is amended to read:

**1-A. Prorated payment of deferred taxes.** The State Tax Assessor is authorized to prorate payments to municipalities for claims filed pursuant to this chapter if the amount available in the Senior Property Tax Deferral ~~Revolving Account~~Fund established in section ~~62666~~6266-A in any fiscal year is insufficient to make full payments to all municipalities. If the applicant for deferred taxes can not pay

the difference due to the municipality, the municipality that does not receive the full amount of deferred property taxes may cause a tax lien certificate to be filed in the county registry of deeds for the amount not received.

**Sec. A-7. 36 MRSA §6266**, as enacted by PL 1989, c. 534, Pt. C, §1, is repealed.

**Sec. A-8. 36 MRSA §6266-A** is enacted to read:

**§ 6266-A. Senior Property Tax Deferral Fund**

**1. Senior Property Tax Deferral Fund.** There is established the Senior Property Tax Deferral Fund, referred to in this section as "the deferral fund," in the bureau for the purpose of making the payments to municipal tax collectors of property taxes deferred under this chapter. Funds in the deferral fund do not lapse but must be carried forward.

**2. Funding from real estate transfer tax.** All money received from real estate transfer tax pursuant to section 4641-B, subsection 3-A must be credited to the deferral fund and available for the purposes stated in subsection 1.

**3. Payments credited.** All money received by the bureau under this chapter as repayments of deferred property taxes, including the interest accrued under section 6255, subsection 3, must, upon receipt, be credited to the deferral fund and available for the purposes stated in subsection 1.

**4. Appropriation request.** If there is not sufficient money in the deferral fund to make the payments required by subsection 1, the State Tax Assessor shall request an appropriation from the General Fund that together with the money in the deferral fund provides 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 deferral account, the bureau shall repay to the General Fund the amounts advanced as appropriations under subsection 4, plus accrued interest.

**6. Report and determination of assessor; suspension of deposits from real estate transfer tax.** The State Tax Assessor shall determine annually the amount in the deferral fund, projected deposits under subsection 2, anticipated payments under subsection 3 and projected payments to fulfill the purposes of subsection 1 and determine whether sufficient funds exist to carry out the purposes of subsection 1 for the following year without further distributions from the real estate transfer tax pursuant to section 4341-B, subsection 3-A. The assessor shall submit a report of the determinations by May 1st annually to the Treasurer of State and the joint standing committee of the Legislature having jurisdiction over taxation matters. If the assessor determines based on this report that further distributions from the real estate transfer tax pursuant to section 4341-B, subsection 3-A are or are not needed, the assessor shall take appropriate action pursuant to section 4341-B, subsection 3-A.

**Sec. A-9. 36 MRSA §6267**, as enacted by PL 1993, c. 707, Pt. G, §10, is repealed.

**Sec. A-10. Effective date.** This Part takes effect October 1, 2009 and applies to property tax years beginning on or after April 1, 2010.

## PART B

**Sec. B-1. 36 MRSA §4641-B, sub-§3-A** is enacted to read:

**3-A. Distribution to Senior Property Tax Deferral Program.** Upon receipt of the funds from each register of deeds under subsection 3, the State Tax Assessor shall deposit 0.5% of those funds into the Senior Property Tax Deferral Fund established in section 6266-A, subsection 1. If the assessor determines, pursuant to section 6266-A, subsection 6, that distributions pursuant to this subsection are not needed for the following year, the assessor shall cease distributions to the Senior Property Tax Deferral Fund. The remaining funds must be distributed as specified in subsection 4.

**Sec. B-2. Effective date.** This Part takes effect October 1, 2009.

## PART C

**Sec. C-1. 36 MRSA §684, sub-§1,** as amended by PL 2007, c. 438, §21, is further amended to read:

**1. Generally.** The bureau shall furnish to the assessor of each municipality a sufficient number of printed forms to be filed by applicants for an exemption under this subchapter and shall determine the content of the forms. The forms must contain a place for the applicant's birth date. A municipality shall provide to its inhabitants reasonable notice of the availability of application forms. An individual claiming an exemption under this subchapter for the first time shall file the application form with the assessor or the assessor's representative. The application must be filed on or before April 1st of the year on which the taxes are based.

**Sec. C-2. 36 MRSA §949** is enacted to read:

### **§ 949. Suspension of foreclosure for homesteads of persons 65 years of age or older**

Notwithstanding the other provisions of this subchapter, a tax lien mortgage may not be foreclosed with respect to the homestead as defined in section 681 of a person who is 65 years of age or older who has been a resident in the homestead for 10 years or longer until the real estate is transferred by deed or at the death of the person eligible for the suspension of foreclosure provided in this section. Liens on the real estate continue in effect until the death of the property owner or the property is otherwise transferred, and interest on the unpaid taxes continues to accrue until the lien is satisfied.

**Sec. C-3. Application.** This Part applies to a tax lien in existence on or after October 1, 2009.

## SUMMARY

Part A provides a process, through the Senior Property Tax Deferral Program, that permits persons 65 years of age or older to defer property taxes on their homesteads without regard to income. The State would reimburse municipalities for the deferred taxes and acquire a lien on the property to collect what is owed when the property is sold or otherwise transferred.

Part B requires 0.5% of the real estate transfer tax paid to the State to be deposited in a fund to be used to fund the Senior Property Tax Deferral Program. Based on an annual assessment by the State Tax Assessor, if the assessor determines that the Senior Property Tax Deferral Program has sufficient funding without the distribution from the real estate transfer tax, that distribution is suspended for that year.

Part C provides that a lien for unpaid property taxes may not be foreclosed against the homestead of a person who is at least 65 years of age and has lived in the homestead for at least 10 years until the property is transferred by deed or upon death. Liens would continue in effect and would accrue interest until the lien is satisfied.