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Public Law
124th Legislature
Second Regular Session

Chapter 489
H.P. 776 - L.D. 1121

**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:

Sec. 1. 36 MRSA §941, 2nd ¶ is amended to read:

The tax collector may, after the expiration of 8 months and within one year from the date of original commitment of the tax or, in the case of deferred taxes pursuant to chapter 908-A, after the due and payable date established pursuant to section 6271, subsection 5, give to the person against whom said the tax is assessed, or leave at his the person's last and usual place of abode, or send by registered mail to his the person's last known address, a notice in writing signed by said tax collector stating the amount of the tax, describing the real estate on which the tax is assessed and demanding the payment of such tax within 10 days after service of such notice.

Sec. 2. 36 MRSA §942, 2nd ¶, as amended by PL 1983, c. 407, §2, is further amended to read:

The tax collector may, after the expiration of 8 months and within one year after the date of original commitment of a tax or, in the case of deferred taxes pursuant to chapter 908A, after the due and payable date established pursuant to section 6271, subsection 5, give to the person against whom the tax is assessed, or leave at his the person's last and usual place of abode, or send by certified mail, return receipt requested, to his the person's last known address, a notice in writing signed by the tax collector or bearing his the tax collector's facsimile signature, stating the amount of the tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on the real estate to secure the payment of the tax, and demanding the payment of the tax within 30 days after service or mailing of the notice with \$3 for the tax collector for making the demand together with the certified mail, return receipt requested, fee. In the case of taxes supplementally assessed, the tax collector may give that notice after the expiration of 8 months and within one year after the date of commitment of the supplementally assessed taxes. If an owner or occupant of real estate to whom the real estate is taxed dies before that demand is made on him that owner or occupant, the demand may be made upon the personal representative of his that owner's or occupant's estate or upon any of his that owner's or occupant's heirs or devisees.

Sec. 3. 36 MRSA §942, 5th ¶, as amended by PL 1991, c. 846, §9, is further amended to read:

The costs to be paid by the taxpayer are the sum of the fees for recording and discharge of the lien as established by Title 33, section 751, plus \$13, plus the fee established by section 943 for sending a notice 30 to 45 days prior to the foreclosing date of the tax lien mortgage if that notice is actually sent and

all certified mail, return receipt requested, fees. In the case of a lien in effect pursuant to chapter 908A, the costs to be paid include interest in the amount established under section 6271, subsection 3. Upon redemption, the municipality shall prepare and record a discharge of the tax lien mortgage.

Sec. 4. 36 MRSA §943-B is enacted to read:

§ 943-B. Credit reporting; payment during redemption period

If a municipality takes action under sections 942 or 943 to enforce a lien in effect pursuant to chapter 908-A that results in a record of a lien in a party's name being placed in that party's file with a consumer reporting agency, that lien must be considered inaccurate information under Title 10, section 1317 if the party submits proof to the consumer reporting agency that the deferred taxes were paid during the 18-month redemption period provided for in section 943.

Sec. 5. 36 MRSA c. 908-A is enacted to read:

CHAPTER 908-A

MUNICIPAL PROPERTY TAX DEFERRAL FOR SENIOR CITIZENS

§ 6271. Municipal authority

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

A. "Eligible homestead" means the owner-occupied principal dwelling, either real or personal property, owned by a taxpayer and the land upon which it is located. If the dwelling is located in a multiunit building, the eligible 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 dwelling compared to the total value of the building exclusive of the common elements, if any.

B. "Federal poverty level" means the nonfarm income official poverty line for a family of the size involved, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2.

C. "Household income" has the meaning set out in section 6201, subsection 7.

D. "Program" means a tax deferral program adopted by a municipality pursuant to subsection 2.

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

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

G. "Taxpayer" means an individual who is responsible for payment of property taxes and has applied to participate or is currently participating in the program under this chapter.

2. Authority. The legislative body of a municipality may by ordinance adopt a property tax deferral program for senior citizens, referred to in this section as "the program." Upon application by a taxpayer, a municipality may defer property taxes on property if the following conditions are met:

- A. The property is an eligible homestead where the taxpayer has resided for at least 10 years prior to application;
- B. The taxpayer is an owner of the eligible homestead, is at least 70 years of age on April 1st of the first year of eligibility and occupies the eligible homestead; and
- C. The household income of the taxpayer does not exceed 300% of the federal poverty level.

An application, information submitted in support of an application and files and communications relating to an application for deferral of taxes under the program are confidential. Hearings and proceedings held by a municipality on an application must be held in executive session unless otherwise requested by the applicant. Nothing in this paragraph applies to the recording of liens or lists under subsection 3 or any enforcement proceedings undertaken by the municipality pursuant to this chapter or other applicable law.

The municipality shall make available upon request the most recent list of tax-deferred properties of that municipality required to be filed under subsection 3. The municipality may publish and release as public information statistical summaries concerning the program as long as the release of the information does not jeopardize the confidentiality of individually identifiable information.

3. Effect of deferral. If property taxes are deferred under the program, the lien established on the eligible homestead under section 552 continues for the purpose of protecting the municipal interest in the tax-deferred property. Interest on the deferred taxes accrues at the rate of 0.5% above the otherwise applicable rate for delinquent taxes. In order to preserve the right to enforce the lien, the municipality shall record in the county registry of deeds a list of the tax-deferred properties of that municipality. The list must contain a description of each tax-deferred property as listed in the municipal valuation together with the name of the taxpayer listed on the valuation. The list must be updated annually to reflect the addition or deletion of tax-deferred properties, the amount of deferred taxes accrued for each property and payments received.

The recording of the tax-deferred properties under this subsection is notice that the municipality claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county registry of deeds in connection with the recording. For a property deleted from the list, the recording serves as notice of release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

4. Notice. The State Tax Assessor shall prepare a one-page notice of the effect of the deferral of property taxes under this section, of the right of the municipality to file a tax lien mortgage pursuant to chapter 105 and that the deferred taxes become due and payable as established in subsection 5. This notice must 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. A municipality that adopts the program

shall provide a copy of this notice to each taxpayer applying to the program at the time of application and shall also annually provide to each taxpayer in the program, in lieu of a property tax bill, a copy of this notice together with an accounting of taxes deferred and interest accrued.

5. Lien. When it is determined that one of the events set out in subsection 6 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the municipality shall send notice by certified mail to the taxpayer, or the taxpayer's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and establishing a due and payable date. For events listed in subsection 6, paragraphs A, B and C, payment is due within 45 days of the date of the notice. When the event listed in subsection 6, paragraph D occurs, the total amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State. The municipality shall include in the notice a statement that the lien enforcement procedures pursuant to chapter 105, subchapter 9 apply.

If the deferred tax liability of a property has not been satisfied by the date established pursuant to this subsection, the municipality may enforce the lien according to procedures in chapter 105, subchapter 9.

Partial payments accepted during the 18-month redemption period provided for in section 943 may not interrupt or extend the redemption period or in any way affect foreclosure procedures.

6. Events requiring the payment of deferred tax and interest. Subject to subsection 7, all deferred taxes and accrued interest must be paid pursuant to subsection 5 when:

- A. The taxpayer dies;
- B. Some person other than the taxpayer becomes the owner of the property;
- C. The tax-deferred property is no longer occupied by the taxpayer as a principal residence, except that this paragraph does not apply if the taxpayer is required to be absent from the eligible homestead for health reasons; or
- D. The tax-deferred property, a mobile home, is moved out of the State.

7. Election to continue deferral. If one of the events listed in subsection 6 occurs, and the ownership of the eligible homestead is transferred to another member of the same household, the transferee may apply to the municipality for continuation of the deferral of taxes if the transferee meets the conditions in subsection 2, paragraphs B and C.

8. Repeal of program. A municipality that has adopted the program under this section may discontinue it through the same procedure by which the program was adopted; however, any taxes deferred under the program continue to be deferred under the conditions of the program on the date it was ended.

Effective July 12, 2010