

Extended Homestead Exemption Proposal

What the plan does:

- ▶ Eliminates current Homestead Exemption statutes (although current Homestead Exemption could be retained with the Extended Homestead Exemption offered as an option)
- ▶ Replaces it with plan closely modeled after the Maine Land Bank and Community Preservation Program.

Advantages of Proposed Plan:

- ▶ Does not require a constitutional amendment as assessments remain at just value. Plan deals with property value exemptions, same as previous Homestead statutes.
- ▶ Excludes second homes and business buildings; primary residential property and business land only.
- ▶ Includes buildings and structures for primary residential property, as well as land.
- ▶ Eliminates possible tax shift to non-participants, as State makes up the difference, same as previous Homestead statutes.
- ▶ State contribution during early years will be offset by savings from elimination of current Homestead program.
- ▶ State contributions in the future will be offset by recapture penalties generated by the program, thereby saving the State the cost of the previous Homestead program.

Reasons to adopt the Proposed Plan:

- ▶ The current Homestead Exemption is a relatively ineffective mechanism for tax relief
OIt provides an approximate maximum of only \$175 worth of annual tax relief (now lower for higher valued properties). This is a relatively insignificant “band-aid.”
OIt is a static rather than dynamic relief device with no allowances made for differing property values or circumstances.
OIt is basically a “give-away” program with no real rationale for granting tax relief
- ▶ Proposed plan accomplishes most of the goals of the Maine Land Bank program, notably preserving long-term home and business ownership for generations of Mainers.
- ▶ Creates a valuable revenue-neutral tax relief program which should fund itself in fewer than five years, thereby saving the State money over time.
- ▶ Non-participants should be able to enjoy at least \$175 worth of individual tax relief through other tax reform measures currently under consideration.
- ▶ Successfully addresses the most frequent and credible criticisms of the proposed Maine Land Bank and Community Preservation Program.

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An Act To Establish The Extended Homestead Exemption Program

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

Sec. 1. 36 MRSA §683, as enacted by PL 1997, c. 643, Pt. HHH, §3 and affected by §10, is amended to read:

§683. Exemption of Homesteads and Business Lands

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

- A. "Program" means the Maine Resident Extended Homestead Property Tax Exemption Program established in this subsection.
- B. "Direct relative" means grandparent, parent, aunt, uncle, sibling, first cousin, child, niece, nephew or grandchild, by birth or adoption.
- C. "Homestead property" means property including land and any building or structure on the land or any other thing affixed to the land that would be considered real estate under section 551.
- D. "Business Lands" means the land only (excluding building or structures) used for the conduct of business by the owner of the property operating as either a sole proprietor, a Chapter S corporation, a general or limited partnership, a limited liability corporation, or a limited liability partnership.
- E. "Fair market value" means the assessed value of comparable property in the municipality or unorganized territory, as applicable, adjusted by the applicable assessment ratio.

2. Valuations

A. Base valuation. Except as otherwise provided, the base valuation of homestead and business lands property for homestead and business lands exemption purposes is the assessed value of the homestead and/or business lands property adjusted to 100% using the applicable assessment ratio for a look-back year, which is the fifth year prior to acceptance to the program.

1. Prior to 2005, 1997 will be considered to be the look-back year.
2. If the property is not in the Extended Homestead and Business Lands Program and the owner of the property applying for acceptance to the program has not owned the property since 1997, but acquired the property under circumstances that would not be deemed a change of ownership under section 683, subsection 4, paragraph A, subparagraphs 1 to 8, and the current term of

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ownership plus the immediately preceding term of ownership precedes 1998, then the 1997 look-back under this subsection applies in determining base valuation.

3. If the owner applying for acceptance to the program has not owned the property for that 5-year period, and acquired the property under circumstances that constitute a change in ownership under section 683, subsection 4, paragraph A, subparagraphs 1 to 8, then the base valuation of property for homestead and business lands exemption purposes is the fair market value at time of purchase.

B. Program assessed value. The program assessed value for property for homestead and business lands exemption purposes is:

1. For the first year under the program, the base valuation under subsection 2, paragraph A; and
2. For subsequent years under the program, the base valuation as adjusted by any cumulative increases and decreases authorized under section 683, subsection 3

C. Change in ownership. Base valuation and program assessed value under this section are subject to recalculation when there is a change in ownership pursuant to section 683, subsection 4, paragraph B.

3. Program assessment adjustments

A. Annual adjustments. The program assessed value of homestead and business lands property may be adjusted annually on April 1st, subject to this section.

B. Increase limited. The program assessed value of homestead and business lands property may not increase under the annual adjustment by more than the lower of:

1. Two percent of the program assessed value of the prior year; or
2. The percent change in the Consumer Price Index for all urban consumers.

C. Decrease authorized. Nothing in this subchapter prevents:

1. A program assessment based on less than a 100% valuation; or
2. A decrease in the program assessed value.

If the Consumer Price Index decreases, then the program assessed value must be decreased by the same or greater percentage.

D. Exemption amount. The exemption amount is defined to be the value calculated as the difference between the fair market value of the homestead and/or business land property and the program assessed value. The exemption amount of the homestead and/or business lands of a permanent resident of this State who has owned a homestead and/or business land in this State for the preceding 12 months is exempt from taxation except for assessments for special benefits. In

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determining the local assessed value of the exemption, the assessor shall multiply the amount of the exemption by the ratio of current just value upon which the assessment is based as furnished in the assessor's annual return pursuant to section 383. If the title to a homestead and/or business land is held by the applicant jointly or in common with others, the exemption may not exceed the amount defined above, but may be apportioned among the owners who reside on the property to the extent of their respective interests. A municipality responsible for administering the homestead and business lands exemption has no obligation to create separate accounts for each partial interest in a homestead and/or business land owned jointly or in common.

4. Change of ownership

A. Change in ownership determined. A change of ownership is a transfer by sale or grant to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in a homestead and/or business land property except for a transfer:

1. To a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;
2. To the spouse of the transferor that takes effect upon the death of the transferor;
3. That creates, transfers or terminates, solely between spouses, any co-owner's interest;
4. To one or more direct relatives of the transferor;
5. To any person by bequest;
6. That confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the land is located;
7. For the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;
8. To a revocable trust by the transferor with the transferor, the transferor's spouse or a direct relative of the transferor as beneficiary; or
9. From a revocable trust described in subparagraph 8. back to the settlor or trustor or to the beneficiaries of the trust.

B. Effect.

1. Regardless of whether or not there is a change in ownership, if the new owner does not apply for homestead and business lands exemption under the program, the property reverts to non-homestead status.
2. If there is a change in ownership and the new owner applies for homestead and business lands exemption under the program and if money changes hands during the change in ownership, the program valuation for the property for homestead and business lands exemption

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purposes becomes the purchase price of the property or the current program assessed value under section 683, subsection 2, paragraph B, whichever is larger.

5. Penalty for withdrawal; evasion

A. Penalty imposed. When there is a change of ownership as determined under subsection 4 or when a program participant opts to withdraw from the program, except when the change is occasioned by a transfer to the State or other entity holding the power of eminent domain, resulting from the exercise or threatened exercise of that power, a penalty upon the owner must be imposed. The penalties for withdrawal must be paid to the municipality's tax collector as additional property taxes upon withdrawal. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B. The penalty is the greater of:

1. An amount equal to the taxes that would have been assessed on the first day of January for the five preceding tax years, or any lesser number of tax years starting with the year in which the property was first accepted under the program for the current owner, preceding such withdrawal had that property not received the homestead exemption during those year(s) less all taxes paid on that real estate over the preceding five years, and interest at the legal rate from the date or dates on which those amounts would have been payable; or

2. An amount computed by multiplying the amount, if any, by which the "computational value" (defined below) of the property on the date of withdrawal exceeds the 100% program-assessed value of the property on the preceding January 1st, by the following rates:

a. If the property was subject to the program 10 years or less prior to the date of withdrawal, 30%; and

b. If the property was subject to the program for more than 10 years prior to the date of withdrawal, that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the land was subject to the program prior to the date of withdrawal until a rate of 20% is reached.

3. Computational value of the property is defined as follows:

a. In the event that property is voluntarily withdrawn from the program and is retained by the owner without transfer or sale, the computational value will be equal to the fair market value.

b. In the event that the new owner applies and is accepted into the program, the computational value will be equal to either the purchase price of the property or the fair market value, whichever is lower.

c. Otherwise, the computational value will be equal to either the purchase price of the property or the fair market value, whichever is higher.

4. In the event that property is voluntarily withdrawn from the program and is retained by the owner without transfer or sale:

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a. If the owner is no longer eligible for the program as determined by section 682, the property reverts to non-homestead status and no penalty is due.

b. If the property is sold during the five years following the date of withdrawal of property from the program, and if the new owner applies for the program within that same five year period, a condition of acceptance to the program will be the payment of a penalty upon the new owner that is equal to:

- i. A penalty as described in this section using the purchase price of the property as the computational value,
- ii. Less the penalty already paid by the previous owner.

c. If the new owner does not apply for the program or if the property is sold to a third party, there will be no further penalties imposed associated with this transaction.

B. Recording; title affected. When a penalty has been assessed as required under section 683, subsection 5, paragraph A, the penalty must be recorded with the appropriate register of deeds. Until such time as the penalty is paid, there shall be a lien to secure the payment of all penalties, provided in the inventory and valuation upon which the assessment is made there shall be a description of the real estate taxed sufficiently accurate to identify it. Such lien shall take precedence over all other claims on said real estate and shall continue in force until the penalties are paid or until said lien is otherwise terminated by law. Enforcement of such liens is described under sections 941 through 948.

C. Evasion. A person who intentionally attempts to avoid or lower the penalty imposed by this section or who makes false statements in making an application under this subchapter is subject to prosecution under section 184-A.

6. Application

A. Change in land holdings. Each addition to or reduction in homestead and/or business lands property or a portion of and/or business lands homestead property is subject to this subchapter.

B. Effect on other laws. Participation in the program does not preclude participation in other programs, such as, but not limited to, Maine Tree Growth Tax Law or Farm and Open Space Tax Law.

7. Exemption in addition to other exemptions. The exemption provided in this subchapter is in addition to the exemptions provided in sections 653 and 654

8. Effect on state valuation. The just value of homesteads and business lands exempt under this subchapter must be included in the annual determination of state valuation under sections 208 and 305.

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9. Property tax rate. The value of homestead and business lands exemptions under this subchapter must be included in the total municipal valuation used to determine the municipal tax rate. The municipal tax rate as finally determined may be applied to only the taxable portion of each homestead qualified for that tax year.

Sec. 1. 36 MRSA §683, sub-§2, as enacted by PL 1997, c. 643, Pt. HHH, §3 and affected by §10, is amended to read:

2. Entitlement to reimbursement by the State; calculation.

A. Reimbursement. A municipality that has approved homestead and business lands exemptions under this subchapter may recover from the State 100% of the taxes lost by reason of the exemptions upon proof in a form satisfactory to the bureau. The bureau shall reimburse the Unorganized Territory Education and Services Fund for 100% of taxes lost by reason of the exemption. The amount of taxes recovered by individual municipalities or by the Unorganized Territory Education and Services Fund shall be reduced by the amount of any withdrawal penalties collected by the municipalities or from unorganized territories. Any municipality which receives a penalty for the withdrawal of land from taxation under this chapter shall report to the State Tax Assessor annually the total amount received on the municipal valuation return form described in section 383.

B. Minimum Assessment Ratio. A municipality that fails to achieve the minimum assessment ratio established in section 327 loses 10% of the reimbursement provided by this section for each one percentage point the minimum assessment ratio falls below the ratio established in section 327.

SUMMARY

This bill proposes to provide property tax relief to Maine resident homestead and business land property owners in the State. Under the bill, a voluntary Extended Homestead Exemption Program is created for primary residential real estate and for business lands. The amount of the exemption would be determined by comparing the current assessed value to a program value, which is based on the assessed value which existed five years prior to entry into the program, as adjusted by using the appropriate ratio for that year, updated annually by either the rate of inflation or 2%, whichever is lower. The program would include provisions requiring adjustments or penalties in cases when there is a change in ownership other than to a family member or by designated bequest or if the property is withdrawn from the program.

Title 36, Chapter 105, CITIES AND TOWNS

Subchapter 4-B: MAINE RESIDENT HOMESTEAD PROPERTY TAX EXEMPTION (HEADING: PL 1997, c. 643, Pt. HHH, @3 (new))

§681. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Applicant.** "Applicant" means an individual who has applied for a homestead property tax exemption pursuant to this subchapter.
- 2. Homestead.** "Homestead" means any residential property in this State assessed as real property owned by an applicant or held in a revocable living trust for the benefit of the applicant and occupied by the applicant as the applicant's permanent residence. A "homestead" does not include any real property used solely for commercial purposes.
- 3. Permanent residence.** "Permanent residence" means that place where an individual has a true, fixed and permanent home and principal establishment to which the individual, whenever absent, has the intention of returning. An individual may have only one permanent residence at a time and, once a permanent residence is established, that residence is presumed to continue until circumstances indicate otherwise.
- 4. Permanent resident.** "Permanent resident" means an individual who has established a permanent residence.

§682. Permanent residency; factual determination by assessor

The assessor shall determine whether an applicant has a permanent residence in this State. In making a determination as to the intent of an individual to establish a permanent residence in this State, the assessor may consider the following:

- 1. Formal declarations.** Formal declarations of the applicant or any other individual;
- 2. Informal statements.** Informal statements of the applicant or any other individual;
- 3. Place of employment.** The place of employment of the applicant;
- 4. Previous permanent residence.** The previous permanent residence of the applicant and the date the previous permanent residency was terminated;
- 5. Voter registration.** The place where the applicant is registered to vote;
- 6. Driver's license.** The place of issuance to the applicant of a driver's license and the address listed on the license;
- 7. Certificate of motor vehicle registration.** The place of issuance of a certificate of registration of a motor vehicle owned by the applicant and the address listed on the certificate;
- 8. Income tax returns.** The residence claimed on any income tax return filed by the applicant;
- 9. Motor vehicle excise tax.** The place of payment of a motor vehicle excise tax by the applicant; or
- 10. Military residence.** A declaration by the applicant of permanent residence registered with any branch of the Armed Forces of the United States.

§683. Exemption of homesteads

**[THIS SECTION WILL BE REPLACED BY PROPOSED NEW LEGISLATION;
SEE PROPOSED LEGISLATION]**

1. Exemption amount. The estate up to the just value of \$7,000 of the homestead of a permanent resident of this State who has owned a homestead in this State for the preceding 12 months is exempt from taxation except for assessments for special benefits. In determining the local assessed value of the exemption, the assessor shall multiply the amount of the exemption by the ratio of current just value upon which the assessment is based as furnished in the assessor's annual return pursuant to section 383. If the title to a homestead is held by the applicant jointly or in common with others, the exemption may not exceed \$7,000 of the just value of the homestead, but may be apportioned among the owners who reside on the property to the extent of their respective interests. A municipality responsible for administering the homestead exemption has no obligation to create separate accounts for each partial interest in a homestead owned jointly or in common.

2. Exemption in addition to other exemptions. The exemption provided in this subchapter is in addition to the exemptions provided in sections 653 and 654.

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3. Effect on state valuation. The just value of homesteads exempt under this subchapter must be included in the annual determination of state valuation under sections 208 and 305.

4. Property tax rate. The value of homestead exemptions under this subchapter must be included in the total municipal valuation used to determine the municipal tax rate. The municipal tax rate as finally determined may be applied to only the taxable portion of each homestead qualified for that tax year.

§684. Forms; application

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. 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. For an exemption from taxes based on the status of property on April 1, 1998, the application must be filed by May 15, 1998. For taxes based on the status of property after April 1, 1998, the application must be filed by April 1st of the year on which the taxes are based.

2. False filing. An individual who knowingly gives false information for the purpose of claiming a homestead exemption under this subchapter commits a Class E crime. An individual who claims to be a permanent resident of this State under this subchapter who also claims to be a permanent resident of another state for the tax year for which an application for a homestead exemption is made commits a Class E crime.

3. Continuation of eligibility. The assessor shall evaluate annually the ongoing eligibility of property for which a homestead exemption has been approved under this subchapter. The evaluation must be based on the status of the property on April 1st of the year on which the homestead exemption is based. The evaluation must include, but is not limited to, a review of whether the ownership of the property has changed in any manner that would disqualify the property for an exemption under this subchapter or whether the owner has ceased to use the property as a homestead. If the assessor determines that the property is no longer entitled to an exemption under this subchapter, the assessor shall notify the owner as provided in section 686 that the property is no longer entitled to an exemption under this subchapter.

4. Owner notification. An owner of property receiving an exemption under this subchapter shall notify the assessor promptly when the ownership or use of the property changes so as to change the qualification of the property for an exemption under this subchapter.

§685. Duty of assessor; reimbursement by State

[¶ 2 OF THIS SECTION WILL BE AMENDED BY PROPOSED NEW LEGISLATION;
SEE PROPOSED LEGISLATION]

1. Examination and identification. The assessor shall examine each application for homestead exemption that is timely filed with the assessor, determine whether the property is entitled to an exemption under this subchapter and identify the exemption in the municipal valuation.

2. Entitlement to reimbursement by the State; calculation. A municipality that has approved homestead exemptions under this subchapter may recover from the State 100% of the taxes lost by reason of the exemptions upon proof in a form satisfactory to the bureau. The bureau shall reimburse the Unorganized Territory Education and Services Fund for 100% of taxes lost by reason of the exemption.

3. Information provided to State; deviations in assessment ratio. The assessor shall provide by June 1st, annually, any relevant information requested by the bureau for the purpose of determining the actual assessment ratio for developed parcels in use in a municipality. The certified ratio declared by the municipality must be considered accurate by the bureau if it is within 10% of the assessment ratio last determined by the bureau in its annual report of ratio studies involving developed parcels of property. The assessor may submit additional information on the relevant assessment ratio to the bureau in order to prove that a different ratio should apply. The bureau may accept a certified ratio that deviates more than 10% from the last reported developed parcel ratio only if the information submitted by the municipality clearly indicates that the certified ratio is more accurate than the assessment ratio contained in the bureau's most recent annual report.

4. Estimated and final payments by the State. Reimbursement to municipalities must be made in the following manner.

A. The bureau shall estimate the amount of reimbursement required under this section for each municipality and certify 80% of the estimated amount to the Treasurer of State by August 1st, annually. The Treasurer of State shall pay by August 15th, annually, the amount certified to each municipality entitled to reimbursement.

B. A municipality claiming reimbursement under this section shall submit a claim to the bureau by November 1st of the year in

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which the exemption applies or within 30 days of commitment of taxes, whichever occurs later. The bureau shall review the claims and determine the total amount to be paid. The bureau shall certify and the Treasurer of State shall pay by December 15th of the year in which the exemption applies the difference between the estimated payment issued and the amount that the bureau finally determines for that tax year. Municipal claims that are timely filed after November 1st must be paid as soon as reasonably possible after the December 15th payment date. If the total amount of reimbursement to which a municipality is entitled is less than the amount received under paragraph A, the municipality shall repay the excess to the State by December 30th of the year, or the amount may be offset against the amount of state-municipal revenue sharing due the municipality under Title 30-A, section 5681.

5. Reimbursement for state mandated costs. The bureau shall reimburse municipalities and the Unorganized Territory Education and Services Fund for state mandated costs in the manner provided in Title 30-A, section 5685.

§686. Denial of homestead exemption; appeals

If the assessor determines that a property is not entitled to a homestead exemption under this subchapter, the assessor shall promptly provide a notice of denial, including the reasons for the denial, to the applicant by either personal delivery or regular mail. An applicant may appeal a denial of an exemption under this subchapter using the procedures provided in subchapter VIII. If the assessor determines that a property receiving an exemption under this subchapter any year within the 10 preceding years was not eligible for the exemption, the assessor shall immediately notify the bureau in writing.

§687. Supplemental assessment

If the assessor notifies the bureau under section 686, or the bureau otherwise determines that a property improperly received an exemption under this subchapter for any of the 10 years immediately preceding the determination, the assessor shall supplementally assess the property for which the exemption was improperly received, plus costs and interest. The supplemental assessment must be assessed and collected pursuant to section 713-B. The bureau shall deduct the value of the portion of the supplemental assessment that pertains to any funds previously reimbursed to the municipality under section 685 from the next reimbursement issued to the municipality.

§688. Effect of determination of residence

A determination of permanent residence made for purposes of this subchapter is not binding on the bureau with respect to the administration of Part 8 and has no effect on determination of domicile for purposes of the Maine individual income tax.

§689. Audits; determinations of bureau

The bureau has the authority to audit the records of a municipality to ensure compliance with this subchapter. The bureau may independently review the records of a municipality to determine if homestead exemptions have been properly approved. If the bureau determines that a homestead exemption was improperly approved, the bureau shall ensure, either by setoff against other payments due the municipality or otherwise, that the municipality is not reimbursed for the exemption. A municipality that is aggrieved by a determination of the bureau under this subchapter may appeal pursuant to section 151.