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FIRST REGULAR SESSION-2011

Legislative Document

No. 474

H.P. 367

House of Representatives, February 10, 2011

An Act To Reduce the Property Tax Burden and Improve the Circuitbreaker Program

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative FLEMINGS of Bar Harbor.
Cosponsored by Senator ALFOND of Cumberland and
Representatives: BERRY of Bowdoinham, CAIN of Orono, DILL of Cape Elizabeth, HAYES
of Buckfield, KNIGHT of Livermore Falls, MacDONALD of Boothbay, ROTUNDO of
Lewiston, STUCKEY of Portland.

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

3 **Whereas,** the application period for the Circuitbreaker Program begins on August
4 1st; and

5 **Whereas,** it is necessary for administrative efficiency and to avoid confusion that
6 changes be made to the Circuitbreaker Program by the beginning of the application
7 period; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

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

13 **Sec. 1. 36 MRSA §6201, sub-§5,** as amended by PL 1995, c. 368, Pt. CCC, §7
14 and affected by §11, is further amended to read:

15 **5. Homestead.** "Homestead" means the dwelling owned or rented by the claimant or
16 held in a revocable living trust for the benefit of the claimant and occupied by the
17 claimant and the claimant's dependents as a home, and may consist of a part of a
18 multidwelling or multipurpose building and a part of the land, ~~up to 10 acres,~~ upon which
19 it is built. "Owned" includes a vendee in possession under a land contract and of one or
20 more joint tenants or tenants in common.

21 **Sec. 2. 36 MRSA §6201, sub-§7,** as enacted by PL 1987, c. 516, §§3 and 6, is
22 amended to read:

23 **7. Household income.** "Household income" means all income received by all
24 persons of a household in a calendar year while members of the household, excluding the
25 income of members of the household for whom the claimant under this chapter is entitled
26 to claim an exemption as a dependent under Part 8 for the year for which relief is
27 requested.

28 **Sec. 3. 36 MRSA §6201, sub-§9,** as repealed and replaced by PL 2007, c. 438,
29 §113, is amended to read:

30 **9. Income.** "Income" means Maine adjusted gross income determined in accordance
31 with Part 8, modified as provided by this subsection.

32 A. Maine adjusted gross income must be increased by the following amounts, to the
33 extent not included in Maine adjusted gross income:

34 (1) Contributions, including catch-up contributions, to any pension, annuity or
35 retirement plan, including contributions to an individual retirement account under
36 Section 408 of the Code, a simplified employee pension plan, a salary reduction
37 simplified employee pension plan, a savings incentive match plan for employees
38 plan and a deferred compensation plan under Section 457 of the Code and cash or

- 1 deferred arrangements under Section 401 of the Code and qualified, or "Keogh,"
2 accounts;
- 3 ~~(2) Nontaxable contributions to a flexible spending arrangement under Section~~
4 ~~125 of the Code;~~
- 5 ~~(3) Amounts excluded from gross income under Section 129 of the Code;~~
- 6 (4) Distributions from a ROTH IRA;
- 7 (5) Capital gains;
- 8 (6) The absolute value of the amount of trade or business loss, net operating loss
9 carry-over, capital loss, rental loss, farm loss, partnership or S Corporation loss
10 included in Maine adjusted gross income;
- 11 ~~(7) Inheritance;~~
- 12 ~~(8) Life insurance proceeds paid on death of an insured;~~
- 13 ~~(9) Nontaxable lawsuit rewards resulting from lawsuits for actions such as~~
14 ~~slander, libel and pain and suffering, excluding reimbursements such as medical~~
15 ~~and legal expenses associated with the case;~~
- 16 (10) Support money;
- 17 ~~(11) Nontaxable strike benefits;~~
- 18 (12) The gross amount of any pension or annuity, including railroad retirement
19 benefits;
- 20 (13) All payments received under the federal Social Security Act and state
21 unemployment insurance laws;
- 22 (14) Veterans' disability pensions;
- 23 (15) Nontaxable interest received from the Federal Government or any of its
24 agencies or instrumentalities;
- 25 (16) Interest or dividends on obligations or securities of this State and its political
26 subdivisions and authorities;
- 27 (17) Workers' compensation and the gross amount of "loss of time" insurance;
28 ~~and~~
- 29 (18) Cash public assistance and relief, but not including relief granted under this
30 chapter; and
- 31 (19) The total nontaxable portion of the following items of income, determined
32 as if a federal income tax return were required, but only if the total of all of the
33 following income items exceeds \$5,000:
- 34 (a) Jury duty payments;
- 35 (b) Awards;
- 36 (c) Lawsuit awards resulting from lawsuits for actions such as slander, libel
37 and pain and suffering, excluding reimbursements such as medical and legal
38 expenses associated with the case;

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- (d) Strike benefits; and
- (e) Life insurance proceeds paid on death of an insured.

B. Maine adjusted gross income must be decreased by the following amounts, to the extent included in Maine adjusted gross income:

- (1) ~~The first \$5,000 of proceeds from a life insurance policy, whether paid in a lump sum or in the form of an annuity;~~
- (2) A rollover from an individual retirement account, pension or annuity fund or plan to an individual retirement account, pension or annuity fund or plan;
- (3) Gifts from nongovernmental sources; and
- (4) Surplus foods or other relief in kind supplied by a governmental agency.

Sec. 4. 36 MRSA §6203-A, as amended by PL 2009, c. 213, Pt. S, §14 and affected by §16, is repealed and the following enacted in its place:

§6203-A. Procedure for reimbursement

1. Application period beginning August 1, 2011. For the application period beginning August 1, 2011, at least monthly on or before the last day of the month, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. At least monthly, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

2. Application periods beginning on or after January 1, 2012. For application periods beginning on or after January 1, 2012, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller at any time after June 30th, but no later than July 15th, to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. No later than August 1st, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

Sec. 5. 36 MRSA §6204, as amended by PL 2005, c. 2, Pt. E, §3 and affected by §§7 and 8, is repealed and the following enacted in its place:

§6204. Filing date

1. Application period beginning August 1, 2011. For the application period beginning August 1, 2011, a claim may not be paid unless the claim is filed with the bureau on or after August 1, 2011 and on or before December 31, 2011.

1 **2. Application periods beginning on or after January 1, 2012.** For application
2 periods beginning on or after January 1, 2012, a claim may not be paid unless the claim is
3 filed with the bureau on or after January 1st and on or before the following April 15th.

4 **Sec. 6. 36 MRSA §6207, sub-§1, ¶A-1,** as amended by PL 2009, c. 213, Pt.
5 XXX, §1, is further amended to read:

6 A-1. Fifty percent of that portion of the benefit base that exceeds 4% but does not
7 exceed 8% of income plus 100% of that portion of the benefit base that exceeds 8%
8 of income ~~to a maximum payment of \$2,000;~~ and calculated according to tables
9 established by the State Tax Assessor.

10 (1) Tables established by the assessor must be based on the benefit formula set
11 forth in this subsection and include benefit base brackets in increments of \$100
12 and household income brackets in increments of \$1,000.

13 (2) The maximum benefit under this subsection is limited to \$2,400.

14 **Sec. 7. 36 MRSA §6207, sub-§1, ¶B,** as enacted by PL 2009, c. 213, Pt. XXX,
15 §2, is repealed.

16 **Sec. 8. 36 MRSA §6210, last ¶,** as amended by PL 2005, c. 218, §59, is further
17 amended to read:

18 The assessor shall include ~~a checkoff to request an~~ the application form and
19 instructions for the Maine Residents Property Tax Program on with the individual income
20 tax form. The assessor shall also provide for individuals to apply through the Department
21 of Health and Human Services' integrated eligibility system as they apply or recertify for
22 other programs administered by that department. The assessor shall also provide a
23 paperless option for filing an application for the Maine Residents Property Tax Program.

24 **Sec. 9. Report.** By January 15, 2014, the State Tax Assessor shall submit a report
25 to the joint standing committee of the Legislature having jurisdiction over taxation
26 matters providing information comparing the annual cost of the Maine Residents Property
27 Tax Program in years from 2005 to 2013, including the number of applicants for benefits
28 under the Maine Residents Property Tax Program and the average benefits provided, and
29 providing projections for the same information for 2014 to 2017. The report must
30 identify the extent of increased participation in and benefit cost of the Maine Residents
31 Property Tax Program as the result of coordination of the program with the income tax.
32 The committee may submit legislation related to the report to the Second Regular Session
33 of the 126th Legislature.

34 **Sec. 10. Application.** Unless otherwise specified and except for that section of
35 this Act that amends the Maine Revised Statutes, Title 36, section 6210, this Act applies
36 to applications filed with respect to program application periods of the Maine Residents
37 Property Tax Program beginning on or after August 1, 2011. That section of this Act that
38 amends Title 36, section 6210 applies to applications filed on or after January 1, 2012.

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

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SUMMARY

This bill simplifies the Maine Residents Property Tax Program, also referred to as "the Circuitbreaker Program," by simplifying the determination of eligibility, transitioning the application period to the income tax filing period and permitting application to be made through the Department of Health and Human Services' integrated eligibility system. The bill requires the State Tax Assessor to report to the joint standing committee of the Legislature having jurisdiction over taxation matters by January 15, 2014 on the impact of the changes made by this bill.