



**LEGAL SERVICES
FOR MAINE ELDERS**

LD 565 – An Act to Amend the Definition of "Homestead" Under the Homestead Property
Tax Exemption Laws

Testimony of John Brautigam, Esq. for Legal Services for Maine Elders
Joint Standing Committee on Taxation

March 5, 2025

Senator Grohoski, Representative Cloutier, and members of the Joint Standing Committee
on Taxation.

My name is John Brautigam, and I am here today on behalf of Legal Services for Maine
Elders. LSE provides free legal help for Mainers aged 60 and older when their basic human
needs are at stake.

LD 565 proposes to expand eligibility for the homestead property tax program to include
homes held in irrevocable trusts. We generally support this bill and take this opportunity to
point out a few policy considerations.

Ownership and Control Considerations

Under current law, property tax relief is available to homeowners who hold their primary
residence in their own name or in a revocable trust. A revocable trust allows the homeowner
to retain full control over the property, including the ability to modify or dissolve the trust at
will. Because the homeowner remains the beneficial owner, it aligns with the policy goal of
assisting individuals who actively occupy and pay taxes on their primary residence.

An irrevocable trust, by contrast, involves a transfer of ownership to the trust itself, which
typically cannot be undone by the grantor. The key question for policymakers is whether the
loss of direct, complete ownership should impact eligibility for property tax relief. While
some homeowners establish irrevocable trusts primarily for estate planning or asset
protection purposes, others do so as part of long-term care planning while continuing to
reside in the home.

LEGAL SERVICES FOR MAINE ELDERS, INC.
5 Wabon Street, Augusta, Maine 04333
(207) 621-0087 Fax (207) 621-0742
Offices in Augusta, Bangor, Lewiston, Biddeford and Presque Isle
LSE Helpline 1-800-750-5353 (Voice/TTY)
www.mainelse.org

Ensuring the Benefit Reaches Intended Recipients

One challenge in extending benefits to irrevocable trusts is ensuring that tax relief continues to serve the intended beneficiary—the person residing in the home—rather than simply reducing tax liability for a trust entity that may ultimately benefit multiple heirs.

LD 565 is sound policy in this regard. It does not change the current legal requirement that the homestead exemption only applies for the permanent residence of the applicant.

Avoiding Unintended Loopholes

Some critics argue that allowing property tax benefits for irrevocable trusts could open the door for wealthier individuals to reduce their tax burden while still enjoying the use of the home. On the other hand, supporters contend that many homeowners who establish irrevocable trusts are not particularly wealthy and may still warrant property tax assistance, particularly those using such trusts in Medicaid planning to address long-term care needs. Again, because the law would continue to require the applicant to reside in the property, we believe this is good policy.

Conclusion

Maine law already limits homestead benefits to applicants who reside permanently in the home. Assuming that this is a firm and enforceable policy, it suggests that extending the homestead benefit to homes placed into an irrevocable trust would expand the program in a manner consistent with its underlying purposes.

Thank you for your time and consideration. I would be happy to answer any questions you may have.