

**TITLE 36
TAXATION**

**PART 9
TAXPAYER BENEFIT PROGRAMS**

**CHAPTER 907-A
MUNICIPAL PROPERTY TAX ASSISTANCE**

§6231. DEFINITIONS (REPEALED)

§6232. MUNICIPAL AUTHORITY

The legislative body of a municipality may by ordinance adopt a program to provide benefits to persons with homesteads in the municipality. A municipality may choose to restrict the program to persons who are at least 62 years of age.

1. Conditions of program. Except as provided in subsection 1-A, a program adopted under this section must:

- A. Require that the claimant has a homestead in the municipality;
- B. Provide benefits for both owners and renters of homesteads; and
- C. Calculate benefits in a way that provides greater benefits proportionally to claimants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued.

1-A. Volunteer program. A municipality may by ordinance adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a maximum of \$750 by volunteering to provide services to the municipality. A program adopted under this subsection does not need to meet the requirements of subsection 1, paragraph B or C. Benefits provided under this subsection must be related to the amount of volunteer service provided. Benefits received under this subsection may not be considered income for purposes of Part 8. A municipality may by ordinance establish procedures and additional standards of eligibility for a program adopted under this subsection.

2. Relationship to state program. (Repealed)

3. Repeal of program. A municipality that has adopted a program under this section may repeal it through the same procedure by which the program was adopted.

§6233. TERMINATION OF PROGRAM (REPEALED)

DEFERRED COLLECTION OF HOMESTEAD PROPERTY TAXES

§6250. DEFINITIONS

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

1. **Benefited property.** (Repealed)

2. **Bureau.** "Bureau" means the Bureau of Revenue Services.

3. **Homestead.** "Homestead" means the owner-occupied principal dwelling, either real or personal property, owned by the taxpayer and up to 10 contiguous acres upon which it is located. If the homestead is located in a multi-unit building, the 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 unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any.

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

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

6. **Taxpayer.** "Taxpayer" means an individual who has filed a claim for deferral under this chapter or individuals who have jointly filed a claim for deferral under this chapter.

§6251. DEFERRAL OF TAX ON HOMESTEAD; JOINT ELECTION; AGE REQUIREMENT; FILING CLAIM

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.

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

3. Guardian compliance. If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under this chapter, the guardian or conservator may act for that individual in complying with this chapter.

4. Trustee compliance. If a trustee of an inter vivos trust which was created by and is revocable by an individual, who is both the trustor and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes under this chapter, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with this chapter.

5. Spouse not required to claim. Nothing in this section may be construed to require a spouse of an individual to file a claim jointly with the individual even though the spouse may be eligible to claim the deferral jointly with the individual.

6. Appeal. Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may file an appeal of the State Tax Assessor's determination, within 30 days of notification of denial or disqualification by the State Tax Assessor, with the State Board of Property Tax Review as provided in chapter 101, subchapter II-A.

§6252. PROPERTY ENTITLED TO DEFERRAL

In order to qualify for tax deferral under this chapter, the property must meet all of the following requirements when the claim is filed and thereafter as long as the payment of taxes by the taxpayer is deferred.

1. Claimant's homestead. The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health.

2. Fee simple estate. The person claiming the deferral must, solely or together with the person's spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or 2 or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly.

3. No prohibitions. There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

§6253. CLAIM FORMS; CONTENTS

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

A. Describe the homestead;

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

2. Statement verification. There shall be annexed to the claim 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.

§6254. STATE LIENS AGAINST TAX-DEFERRED PROPERTY

1. Lien. The lien provided in section 552 must continue for purposes of protecting the State's deferred tax interest in tax deferred property. When it is determined that one of the events set out in section 6259 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the State Tax Assessor shall send notice by certified mail to the owner, or the owner's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and demanding payment on or before April 30th of the year following the tax year in which the circumstances causing withdrawal from the provisions of this chapter occur.

When the circumstances listed in section 6259, subsection 4 occur, the amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State.

If the deferred tax liability of a property has not been satisfied by the April 30th demand date, the State Tax Assessor shall, within 30 days, record in the registry of deeds in the county where the real estate is located a tax lien certificate signed by the State Tax Assessor or bearing the assessor's facsimile signature, setting forth the total amount of deferred tax liability, a description of the real estate on which the tax was deferred and an allegation that a tax lien is claimed on the real estate to secure payment of the tax, that a demand for payment of the tax has been made in accordance with this section and that the tax remains unpaid.

At the time of the recording of the tax lien certificate in the registry of deeds, the State Tax Assessor shall send by certified mail, return receipt requested, to each record holder of a mortgage on the real estate, to the holder's last known address, a true copy of the tax lien certificate. The cost to be paid by the property owner, or the owner's heirs or devisees, is the sum of the fees for recording and discharging of the lien as established by Title 33, section 751, plus \$13. Upon redemption, the State Tax Assessor shall prepare and record a discharge of the tax lien mortgage. The lien described in section 552 is the basis of this tax lien mortgage procedure.

The filing of the tax lien certificate, provided for in this section, in the registry of deeds creates a mortgage on the real estate to the State and has priority over all other mortgages, liens, attachments and encumbrances of any nature and gives to the State all rights usually instant to a mortgage, except that the mortgagee does not have any right of possession of the real estate until the right of redemption expires.

Payments accepted during the redemption period may not interrupt or extend the redemption period or in any way affect the foreclosure procedures.

2. Foreclosure. If the mortgage, including interest and costs, is not paid within 12 months of the date on which the certificate was filed in the registry of deeds, as provided in this section, the mortgage is deemed foreclosed and the right of redemption expired.

2-A. Inventory. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. Whenever the State acquires title to real estate, the State Tax Assessor shall cause an inventory to be made of all such real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any information necessary to the administration and supervision of the real estate.

2-B. Sale; legislative authorization. After authorization by the Legislature, the State Tax Assessor shall, sell or convey any such real estate, but shall in all cases of sales, except sales to former owners of the real estate, give public notice of the proposal to sell the real estate and shall ask for competitive bids and sell to the highest bidder with the right of rejecting all bids. Sales of any such real estate may not be made by the State Tax Assessor except by authorization of the Legislature.

The supervision, administration, utilization and vindication of the right of the State in any such real estate is vested in the State Tax Assessor until the title is conveyed or otherwise disposed of by the Legislature.

3. Foreclosure receipts. Following the sale by the State Tax Assessor of real property acquired through the tax lien certificate procedure outlined in this chapter, all claims of the State evolving from the homestead property tax exemption are satisfied, as well as any tax delinquencies relative to the property in question in the municipality where located. The residual amount resulting from the sale of the property is to be returned to the former owner or to the owner's heirs or devisees.

§6255. LISTING OF TAX-DEFERRED PROPERTY; INTEREST ACCRUAL

1. Tax-deferred property list. If eligibility for deferral of homestead property is established as provided in this chapter, the bureau shall notify the municipal assessor and the municipal assessor shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating that property as tax-deferred property.

2. Tax statement. When requested by the bureau, the municipal tax collector shall send to the bureau as soon as the taxes are extended upon the roll the tax statement for each tax-deferred property.

3. Interest. Interest shall accrue on the actual amount of taxes advanced to the municipality for the tax-deferred property at the rate of 6% per annum.

§6256. RECORDING LIENS IN COUNTY; RECORDING CONSTITUTES NOTICE OF STATE LIEN

1. Recording of liens. For each municipality in which there is tax-deferred property, the bureau shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that municipality. The list must contain a description of the property as listed in the municipal valuation together with the name of the owner listed on the valuation. The list

must be corrected annually to reflect the addition or deletion of deferred properties as well as partial payments received.

2. Notice of recording. The recording of the tax-deferred properties under subsection 1 is notice that the bureau claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county register of deeds in connection with the recording, release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

§6257. MUNICIPAL TAX COLLECTOR TO RECEIVE AMOUNT EQUIVALENT TO DEFERRED TAXES FROM STATE

1. Payment of deferred taxes. Within 30 days of the receipt of information from a municipal tax collector concerning the amount of deferred property taxes in the respective municipality, the State Tax Assessor shall certify that amount to the Treasurer of the State who shall make payment on or before the 15th day of the following month.

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 established in section 6266 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.

1-B. Reimbursement to taxpayers. The State Tax Assessor is authorized to reimburse taxpayers who qualified under this chapter and who have paid property taxes that would have otherwise been deferred but for the prorating of benefits as allowed in subsection 1-A.

2. Accounts maintained. The bureau shall maintain accounts for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the municipality.

§6258. ANNUAL NOTICE TO TAXPAYER

1. Annual deferral notice. On or before December 15th of each year, the bureau shall send a notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice must:

- A. Inform the taxpayer that the property taxes have been deferred in the current year;
- B. Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing therein to November 15th of the current year;
- C. Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the bureau; and
- D. Contain any other information that the bureau considers necessary to facilitate administration of the homestead deferral program including, but not limited to, the right of the taxpayer to submit any amount of money to reduce the total amount of the deferred taxes and interest.

2. Notice mailed. The bureau shall give the notice required under subsection 1 by mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the bureau to be the correct address of the taxpayer.

§6259. EVENTS REQUIRING PAYMENT OF DEFERRED TAX AND INTEREST

Subject to section 6261, all deferred property taxes, including accrued interest, become payable as provided in section 6260 when:

1. Death of claimant. The taxpayer who claimed deferment of collection of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the taxpayers who originally claimed deferment of collection of property taxes under section 6251 dies;

2. Sale of property. The property with respect to which deferment of collection of taxes is claimed is sold, a contract to sell is entered into, or some person other than the taxpayer who claimed the deferment becomes the owner of the property;

3. Claimant moves. The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from that tax-deferred property by reason of health; or

4. Removal of home. The tax-deferred property, a mobile or floating home, is moved out of the State.

§6260. TIME FOR PAYMENTS; DELINQUENCIES

Whenever any of the circumstances listed in section 6259 occurs:

1. Continuation of assessment year. The deferral of taxes for the assessment year in which the circumstance occurs shall continue for that assessment year;

2. Deferred property taxes due. The amounts of deferred property taxes, including accrued interest, for all years are due and payable to the bureau April 30th of the year following the calendar year in which the circumstance occurs, except as provided in subsection 3 and section 6261;

3. Out-of-state move. Notwithstanding the provisions of subsection 2 and section 6263, when the circumstance listed in section 6259, subsection 4, occurs, the amount of deferred taxes shall be due and payable 5 days before the date of removal of the property from the State; and

4. Delinquency. If the amounts falling due as provided in this section are not paid on the indicated due date or as extended under section 6263, those amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in section 6254.

§6261. ELECTION BY SPOUSE TO CONTINUE TAX DEFERRAL

1. Continuation by spouse. When one of the circumstances listed in section 6259, subsections 1 to 3 occurs, the spouse who did not or was not eligible to file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided under section 6251 if:

A. The spouse of the taxpayer is or will be 65 years of age or older not later than 6 months from the day the circumstance listed in section 6259, subsections 1 to 3 occurs; and

B. The property is the homestead of the spouse of the taxpayer and meets the requirements of section 6252, subsection 2.

2. Continuation of deferral by spouse. A spouse who does not meet the age requirements of subsection 1, paragraph A, but is otherwise qualified to continue the property in its tax-deferred status under subsection 1 may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided under section 6251. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 65 years of age prior to April 1st of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided under section 6251. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this chapter.

3. Filing extension. Notwithstanding that section 6251 requires that a claim be filed no later than April 1st, if the bureau determines that good and sufficient cause exists for the failure of a spouse to file a claim under this section on or before April 1st, the claim may be filed within 90 days after notice of taxes due and payable under section 6260 is mailed or delivered by the department to the taxpayer or spouse.

§6262. VOLUNTARY PAYMENT OF DEFERRED TAX AND INTEREST

1. Payments. All payments of deferred taxes shall be made to the bureau.

2. Taxes and interest. Subject to subsection 3, all or part of the deferred taxes and accrued interest may at any time be paid to the bureau by:

A. The taxpayer or the spouse of the taxpayer; or

B. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

3. Notice of payment. A person listed in subsection 2, paragraph B, may make the payments only if no objection is made by the taxpayer within 30 days after the bureau deposits in the mail notice to the taxpayer of the fact that the payment has been tendered.

4. Payment application. Any payment made under this section shall be applied first against accrued interest and any remainder against the deferred taxes. This payment does not affect the deferred-tax status of the property. Unless otherwise provided by law, this payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

5. Lien discharge. When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the bureau shall prepare and record in the county in which the property is located a lien discharge.

§6263. EXTENSION OF TIME FOR PAYMENT UPON DEATH OF CLAIMANT OR SPOUSE

1. Payment extension. If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral under section 6261 dies, the bureau may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under section 6260, subsection 2, if:

A. The homestead property becomes property of an individual or individuals:

(1) By inheritance or devise; or

(2) If the individual or individuals are heirs or devisees in the course of settlement of the estate;

B. An individual or individuals commence occupancy of the property as a principal residence on or before August 15th of the calendar year following the calendar year of death; or

C. An individual or individuals make application to the bureau for an extension of time for payment of the deferred taxes and interest prior to August 15th of the calendar year following the calendar year of death.

2. Extension terms. Subject to paragraph B, an extension granted under this section shall be for a period not to exceed 5 years after August 15th of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the bureau and the individual or individuals.

An extension granted under this section shall terminate immediately if:

A. The homestead property is sold or otherwise transferred by any party to the extension agreement;

B. All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

C. The homestead property, a mobile or floating home is moved out of the State.

3. Accrued interest. During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided under section 6255, subsection 3. No interest may accrue upon interest.

§6264. LIMITATIONS

Nothing in this chapter is intended to or may be construed to:

1. Foreclosure. Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property;

2. Benefited property. (Repealed)

3. Land provisions. Affect any provision of any mortgage, or other instrument relating to land, requiring a person to pay property taxes.

§6265. DEED OR CONTRACT CLAUSES PREVENTING APPLICATION FOR DEFERRAL PROHIBITED; CLAUSES VOID

After the effective date of this chapter, it shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement that prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in this chapter. Any such clause or statement in a mortgage trust deed or land sale contract executed after the effective date of this chapter shall be void.

§6266. SENIOR PROPERTY TAX DEFERRAL REVOLVING ACCOUNT; SOURCES; USES

1. Revolving account. This section establishes in the State Treasury the Senior Property Tax Deferral Revolving Account to be used by the bureau for the purpose of making the payments to municipal tax collectors of property taxes deferred for tax years beginning on or after April 1, 1990, as required by section 6257.

2. Advancement of funds. The funds necessary to make payments under subsection 1 shall be advanced to the bureau from time to time as necessary by the Treasurer of State as an appropriation from the General Fund.

3. Payments credited. All sums of money received by the bureau under this chapter as repayments of deferred property taxes including the interest accrued under section 6255, subsection 3, shall, upon receipt, be credited to the revolving account and shall be available for the purposes of subsection 1.

4. Appropriation request. If there is not sufficient money in the revolving account to make the payments required by subsection 1, the State Tax Assessor shall request an appropriation from the General Fund which together with the money in the revolving account will provide 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 revolving account, the bureau shall repay to the General Fund the amounts advanced as appropriations under subsection 2, plus accrued interest.

§6267. PHASE OUT OF ELDERLY TAX DEFERRAL PROGRAM

New taxpayer claims for participation in the deferral program provided pursuant to this chapter are not allowed regarding an application filed on or after April 1, 1991.

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 percentage points 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.

CHAPTER 915

REIMBURSEMENT FOR TAXES PAID ON CERTAIN BUSINESS PROPERTY

§6651. DEFINITIONS

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

1. Eligible property. "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress commenced in the State, after April 1, 1995 but does not include property that is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes, without limitation, repair parts, replacement parts, additions, accessions and accessories to other qualified business property placed in service on or before April 1, 1995 if the part, addition, accession or accessory is first placed in service, or constitutes construction in progress, in the State after April 1, 1995, unless that property is eligible business equipment as defined in section 691, subsection 1. "Eligible property" includes used qualified business property if the qualified business property was first placed in service in the State, or constituted construction in progress commenced in the State, after April 1, 1995 but does not include property that is eligible business equipment as defined in section 691, subsection 1. "Eligible property" also includes inventory parts.

2. Inventory parts. "Inventory parts" includes repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and stocks or inventories of repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service if acquired after April 1, 1995, regardless of when placed in service.

2-A. Primarily. "Primarily" means more than 50% of the time.

3. Qualified business property. "Qualified business property" means tangible personal property that:

A. Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

B. Either:

(1) Was subject to an allowance for depreciation under the Code on April 1st of the property tax year to which the claim for reimbursement relates or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

(2) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

"Qualified business property" also includes all property that is affixed or attached to a building or other real estate if it is used to further a particular trade or business activity taking place in that building or on that real estate. "Qualified business property" does not include components or attachments to a building if used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. "Qualified business property" also does not include land improvements if used primarily to further the use of the land as land, regardless of the particular trade or business activities taking place in or on the land. In the case of construction in progress or inventory parts, the term "used" means intended to be used. "Qualified business property" also does not include any vehicle registered for on-road use on which a tax assessed pursuant to chapter 111 has been paid or any watercraft registered for use on state waters on which a tax assessed pursuant to chapter 112 has been paid.

4. Retail sales activity. "Retail sales activity" means an activity associated with the selection and purchase of goods or the rental of tangible personal property.

5. Retail sales facility. "Retail sales facility" means a structure used to serve customers who are physically present at the facility for the purpose of selecting and purchasing goods at retail or for renting tangible personal property. "Retail sales facility" does not include a separate structure that is used as a warehouse or call center facility.

§6652. REIMBURSEMENT ALLOWED; LIMITATION

1. Generally. A person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of a portion of those taxes from the State as provided in this chapter. The reimbursement under this chapter is the percentage of the taxes assessed and paid with respect to eligible property specified in subsection 4. For purposes of this chapter, a tax applied as a credit against a tax assessed pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. A taxpayer that included eligible property in its investment credit base under section 5219-M and claimed the credit provided in section 5219-M on its income tax return may not be reimbursed under this chapter for taxes assessed on that same eligible property in a year in which that credit is taken. A successor in interest of a person against whom taxes have been assessed with respect to eligible property is entitled to reimbursement pursuant to this section, whether the tax was paid by the person assessed or by the successor, as long as a transfer of the property in question to the successor has occurred and the successor is the owner of the property as of August 1st of the year in which a claim for reimbursement may be filed pursuant to section 6654. For purposes of this subsection, "successor in interest" includes the initial successor and any subsequent successor. When an eligible successor in interest exists, the successor is the only person to whom reimbursement under this chapter may be made with respect to the transferred property. For an item of eligible property that is first subject to assessment under Part 2 on or after April 1, 2008, and for any item of eligible property for which reimbursement is paid under subsection 4, paragraph B, the reimbursement otherwise payable under this section may not

exceed the actual property taxes paid less any tax increment financing refund received with respect to that property.

1-A. Certain persons excluded. Notwithstanding any other provision of law, the following persons are not eligible for reimbursement pursuant to this chapter:

- A. A public utility as defined by Title 35-A, section 102;
- B. A person that provides radio paging services as defined by Title 35-A, section 102;
- C. A person that provides mobile telecommunications services as defined by Title 35-A, section 102;
- D. A cable television company as defined by Title 30-A, section 2001;
- E. A person that provides satellite-based direct television broadcast services; and
- F. A person that provides multichannel, multipoint television distribution services.

This subsection applies retroactively to property tax years beginning after April 1, 1995.

1-B. Certain property excluded. Notwithstanding any other provision of law, reimbursement pursuant to this chapter may not be made with respect to the following property:

- A. Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;
- B. Lamps and lighting fixtures;
- C. Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:
 - (1) Associated equipment as defined in Title 8, section 1001, subsection 2;
 - (2) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;
 - (3) An electronic video machine as defined in Title 17, section 1831, subsection 4;
 - (4) Equipment used in the playing phases of lottery schemes; and
 - (5) Repair and replacement parts of a gambling machine or device; or
- D. Personal property that would otherwise be entitled to reimbursement under this chapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

Property affected by this subsection that was eligible for reimbursement pursuant to this chapter of property taxes paid for the 1996 property tax year is grandfathered into the program and continues to be eligible for reimbursements unless it subsequently becomes ineligible.

1-C. Certain energy facilities. Reimbursement for certain energy facilities under this chapter is limited as follows.

A. Reimbursement may not be made for a natural gas pipeline, including pumping or compression stations, storage depots and appurtenant facilities used in the transportation, delivery or sale of natural gas, but not including a pipeline that is less than a mile in length and is owned by a consumer of natural gas delivered through the pipeline.

B. Except as provided in paragraph C, reimbursement may not be made for property used to produce or transmit energy primarily for sale. Energy is primarily for sale if during the property tax year for which a claim is being made 2/3 or more of the useful energy is directly or indirectly sold and transmitted through the facilities of a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B.

C. A cogeneration facility is eligible for reimbursement on that portion of property taxes paid multiplied by a fraction, the numerator of which is the total amount of useful energy produced by the facility during the property tax year immediately preceding the property tax year for which a claim is being made that is directly used by a manufacturing facility without transmission over the facilities of a transmission and distribution utility as defined in Title 35-A, section 102, subsection 20-B and the denominator of which is the total amount of useful energy produced by the facility during the property tax year immediately preceding the property tax year for which a claim is being made.

D. For purposes of this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Cogeneration facility" means the eligible property within a facility that produces electrical energy, thermal energy or both for commercial or industrial use when less than 2/3 of the useful energy produced by the facility during the property tax year is sold and transmitted directly or indirectly through the facilities of a transmission and distribution utility, as defined in Title 35-A, section 102, subsection 20-B. "Cogeneration facility" includes eligible property within a heat recovery steam generator.

(2) "Useful energy" is energy in any form that does not include waste heat, efficiency losses, line losses or other energy dissipation.

1-D. Retail sales facilities. Reimbursement pursuant to this chapter may not be made with respect to property that is located in a retail sales facility exceeding 100,000 square feet of interior customer selling space and used primarily in a retail sales activity, unless the facility is owned by a business whose Maine-based operation derives less than 50% of its total annual revenue on a calendar-year basis from sales that are subject to Maine sales tax. This subsection applies to property tax years beginning after April 1, 2006. Property affected by this subsection that was eligible for reimbursement pursuant to this chapter for property taxes paid for the 2006 property tax year is grandfathered into the program and continues to be eligible for reimbursement to the extent permitted by this chapter as it existed on April 1, 2006, unless that property subsequently becomes ineligible.

2. Limitation. Reimbursement may not be made by the State Tax Assessor pursuant to this chapter with respect to the payment of taxes assessed against property that is entitled to exemption pursuant to section 656, subsection 1, paragraph E or any other provision of law except that reimbursement must be made with respect to the payment of taxes assessed against

property that has not been certified for exemption pursuant to section 656, subsection 1, paragraph E but that is entitled to exemption pursuant to that provision if that property has been placed in service after the December 1st immediately preceding April 1st of the tax year for which reimbursement is sought but prior to April 1st of the property tax year for which reimbursement is sought. The claimant may seek reconsideration, pursuant to section 151, of the assessor's denial of reimbursement under this subsection. If the assessor denies a reimbursement claim on the ground that the property in question is entitled to exemption under section 656, subsection 1, paragraph E and the claimant seeks reconsideration of the denial, the assessor shall, at the claimant's request, allow the claimant up to one year to obtain a statement from the Commissioner of Environmental Protection that the property at issue is not exempt. If the claimant timely produces such a statement or otherwise demonstrates that the property is not exempt, the assessor shall allow the reimbursement.

3. Withholding for failure to report. (Repealed)

4. Reimbursement percentage. The reimbursement under this chapter is an amount equal to the percentage specified in paragraphs A and B of taxes assessed and paid with respect to each item of eligible property, except that for claims filed for application periods that begin on August 1, 2006, August 1, 2009, August 1, 2010 or August 1, 2013 the reimbursement is 90% of that amount and for claims filed for the application period that begins on August 1, 2014, the reimbursement is 80% of that amount.

A. For each of the first to 12th years for which reimbursement is made, the percentage is 100%.

B. Pursuant to section 699, subsection 2, reimbursement under this chapter after the 12th year for which reimbursement is made is according to the following percentages of taxes assessed and paid with respect to each item of eligible property.

(1) For the 13th year for which reimbursement is made, the percentage is 75%.

(2) For the 14th year for which reimbursement is made, the percentage is 70%.

(3) For the 15th year for which reimbursement is made, the percentage is 65%.

(4) For the 16th year for which reimbursement is made, the percentage is 60%.

(5) For the 17th year for which reimbursement is made, the percentage is 55%.

(6) For the 18th year for which reimbursement is made and for subsequent years, the percentage is 50%.

§6653. TAXPAYER TO OBTAIN INFORMATION

Before filing a request for reimbursement with the State Tax Assessor pursuant to section 6654, a taxpayer must notify the assessor or assessors for any taxing jurisdiction in which eligible property is subject to tax and for which the taxpayer intends to claim reimbursement that the taxpayer intends to file a reimbursement request. The notification must also include a list of the property that the taxpayer believes constitutes eligible property, the original cost of that property, the date that property was acquired and whether the property was acquired new or used. The taxpayer must submit to the assessor or assessors of each taxing jurisdiction at the same time a request that the assessor or assessors of the taxing jurisdiction provide to the taxpayer a statement identifying the assessed just value of eligible property for which

reimbursement will be requested and the associated tax attributed to that property. If the taxpayer submits the request to the assessor or assessors 60 days or more before the commitment date for the property tax year at issue, the assessor or assessors of the taxing jurisdiction shall make the statement available to the taxpayer at the time the taxing jurisdiction first bills the taxpayer for property taxes for the property tax year at issue. If the taxpayer submits the request to the assessor or assessors less than 60 days before the commitment date or after the commitment date, the assessor or assessors shall make the statement available to the taxpayer within 60 days after the request is made.

§6654. CLAIM FOR REIMBURSEMENT

A person entitled to reimbursement of property taxes paid with respect to eligible property pursuant to section 6652 may file a claim for reimbursement with the State Tax Assessor. The reimbursement claim must be filed with the State Tax Assessor on or after August 1st and on or before the following December 31st for property taxes paid during the preceding calendar year for which no previous reimbursement pursuant to this chapter has been made. For good cause, the State Tax Assessor may at any time extend the time for filing a claim for reimbursement for a period not exceeding 60 days from the original due date. Except as otherwise provided, the claim must be accompanied by the statement obtained by the claimant pursuant to section 6653. If the claimant requests reimbursement of an amount of tax that differs from the amount of tax specified for the eligible property in the statement provided by the assessor or assessors of the taxing jurisdiction, the claimant must attach to the claim form an explanation of the reasons for that difference and the State Tax Assessor shall determine the correct amount of reimbursement to which the claimant is entitled, taking into consideration both the statement from the assessor or assessors and the taxpayer's explanation. If, for any reason, the claimant is unable to obtain the statement specified in section 6653 from the assessor or assessors within the time specified in section 6653, the claimant must attach to the claim form an explanation of the amount of reimbursement requested and the State Tax Assessor shall process the claim without that statement.

§6655. FORMS

The State Tax Assessor shall prescribe forms for the notice of claim and statement of the assessor or assessors provided in section 6653 and the claim for reimbursement, with instructions, and make those forms available to taxpayers and taxing jurisdictions. The forms must include a checkoff to indicate if the applicant is also receiving tax increment financing.

§6656. PAYMENT OF CLAIMS

1. Reimbursement claim. Notwithstanding any other provision of law, except as provided in subsection 1-A, section 6652 and section 6662, upon receipt of a timely and properly completed claim for reimbursement, the State Tax Assessor shall certify that the claimant is eligible for reimbursement under this chapter. The assessor shall determine the benefit for each claimant and shall certify to the State Controller the amounts to be transferred to the Business Equipment Tax Reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue.

1-A. Suspension of reimbursement for nonpayment of taxes. The State Tax Assessor shall suspend reimbursement under this chapter for a claimant who is delinquent in the payment of personal property taxes. For the purposes of this paragraph, delinquency occurs when:

A. The taxpayer has a past due balance in a single municipality or the unorganized territory in the amount of \$10,000 or more in property tax on personal property; and

B. The municipal tax collector certifies to the State Tax Assessor or, in the case of the unorganized territory, the State Tax Assessor determines that the taxpayer is delinquent in the payment of personal property taxes. Certification by the municipal tax collector must be made on a form prescribed by the State Tax Assessor and list the tax and interest due and the year for which it is due. The certification by the municipal tax collector or determination by the State Tax Assessor must be made from July 1st to July 15th in the same year as the application for which the reimbursement is to be suspended.

Within 10 days after certifying or determining that a taxpayer is delinquent, the municipal tax collector or, in the case of the unorganized territory, the State Tax Assessor shall notify the taxpayer that reimbursement under this chapter for the application period beginning August 1st of that year may be suspended under this subsection unless the past due taxes are paid by the end of the application period for that year.

A taxpayer receiving a notice under this subsection has until the last day of the application period prescribed under section 6654 to pay the past due tax to the municipality or, in the case of the unorganized territory, to the State Tax Assessor to redeem any otherwise eligible reimbursement under this chapter. When the municipal tax collector certifies to the State Tax Assessor or, in the case of the unorganized territory, the State Tax Assessor determines that the past due tax has been paid, the State Tax Assessor shall release the reimbursement that has been suspended to the taxpayer in the same manner as for other claims under this chapter. If the taxpayer does not pay the past due tax by the end of the application period, the taxpayer's eligibility for the suspended reimbursement is terminated.

2. Pay certified amounts. The assessor shall pay the certified amounts to each approved applicant that qualifies for the benefit under this chapter by November 1st or within 90 days after receipt of the claim, whichever is later. Interest is not allowed on any payment made to a claimant pursuant to this chapter.

3. Assignment of reimbursement payments. A claimant may assign its right to payments under this chapter to secure a loan from the Finance Authority of Maine, and such an assignment, notwithstanding any contrary provision of law, is a legally valid assignment binding upon the claimant and its successors in interest. Upon notice of such an assignment given to the assessor by the Finance Authority of Maine and written confirmation of such an assignment signed by the claimant, the assessor shall pay to the Finance Authority of Maine any payments due to the claimant pursuant to this chapter and assigned to the Finance Authority of Maine until the Finance Authority of Maine notifies the assessor that the assignment has been released.

§6657. AUDIT OF CLAIM

The State Tax Assessor has the authority to audit any claim filed under this chapter and take any action provided in section 384. If the State Tax Assessor determines that the amount of the claimed reimbursement is incorrect, the State Tax Assessor shall redetermine the claim and notify the claimant in writing of the redetermination and the State Tax Assessor's reasons. If the claimant has received reimbursement of an amount that the State Tax Assessor concludes should not have been reimbursed, the State Tax Assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

§6658. SUBSEQUENT CHANGES

If, after a claim for reimbursement has been filed, the associated property tax assessment is reduced or abated for any reason, or the property tax paid is applied as a credit against the tax assessed pursuant to chapter 111 or 112, the claimant shall file, within 60 days after receipt of the reduction, abatement or credit, an amended claim for reimbursement reflecting the reduction, abatement or credit. If a claimant has received reimbursement for property tax that is reduced, abated or credited against the tax assessed pursuant to chapter 111 or 112, the claimant shall, within 60 days of receipt of the reduction, abatement or credit, refund to the Bureau of Revenue Services the amount of the reimbursement attributable to the property tax that has been reduced, abated or credited. If the claimant fails to make the refund within the 60-day period, the State Tax Assessor, within 3 years from the claimant's receipt of reimbursement, may issue an assessment for the amount that the claimant owes to the Bureau of Revenue Services. The claimant may seek reconsideration, pursuant to section 151, of the assessment.

§6659. LEGISLATIVE FINDINGS

The Legislature finds that encouragement of the growth of capital investment in this State is in the public interest and promotes the general welfare of the people of the State. The Legislature further finds that the high cost of owning qualified business property in this State is a disincentive to the growth of capital investment in this State. The Legislature further finds that the program set forth in this chapter is a reasonable means of overcoming this disincentive and will encourage capital investment in this State.

§6660. AVAILABILITY OF INFORMATION

Notwithstanding section 191, information contained in applications for reimbursement, the names of persons receiving reimbursement and the amount of reimbursement paid to an applicant may be publicly disclosed by the bureau. This section does not permit the disclosure of taxpayer identification numbers.

§6661. CERTAIN LEASED PROPERTY

A lessor of eligible property shall pay over to the lessee of that property reimbursement of property taxes received by the lessor under this chapter with respect to that property to the extent that the lessor has been reimbursed for those taxes by the lessee.

§6662. DISALLOWANCE OF REIMBURSEMENT FOR CERTAIN PROPERTY

Reimbursement under this chapter may not be made for property tax payments made with respect to property located at a facility that has permanently ceased all productive operations on April 1st of the year for which the property taxes are assessed and where no productive operations have been conducted for at least 12 months before the date that reimbursement is requested. This section does not apply if the owner of the facility has publicly advertised that the facility is available for sale or lease and has made a good faith effort to market and sell or lease the facility to prospective buyers or lessees.

§6663. PROGRAM NAME

The procedure for business property tax reimbursement provided by this chapter may be referred to as the "Business Equipment Tax Reimbursement" or "BETR" program.

§6664. REPORT (REPEALED)

§6665. FINANCIAL PROJECTIONS REPORT (REPEALED)