

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

—
S.P. 161 - L.D. 430

**An Act To Amend the Laws Regarding Who May Appeal a Reconsideration
Decision to the Maine Board of Tax Appeals**

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

Whereas, more than 3,000 cases are filed in the State's courts each week, and a taxpayer with a state tax dispute involving less than \$5,000 must appeal directly to Superior Court; such cases increase the caseload of the Superior Court and may take up to a year to be resolved; and

Whereas, the newly created Maine Board of Tax Appeals has the capacity to take more cases and may resolve tax disputes in less than 6 months; and

Whereas, it costs more for taxpayers with tax disputes of less than \$5,000 to appeal to Superior Court than it costs taxpayers to appeal to the Maine Board of Tax Appeals; and

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

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

Sec. 1. 4 MRSA §807, sub-§3, ¶P, as amended by PL 2009, c. 480, §2 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

P. A person who is not an attorney but who, as the executive director of the State Harness Racing Commission, is representing the Department of Agriculture, Conservation and Forestry at adjudicatory hearings before the commission in accordance with Title 8, section 263-C; ~~or~~

Sec. 2. 4 MRSA §807, sub-§3, ¶Q, as enacted by PL 2009, c. 480, §3, is amended to read:

Q. A person who is an attorney admitted to practice in another United States jurisdiction to the extent permitted by rules of professional conduct adopted by the Supreme Judicial Court; or

Sec. 3. 4 MRSA §807, sub-§3, ¶R is enacted to read:

R. A person who is not an attorney but who is a public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer under Title 36, section 151-A, subsection 2 and is representing a party in any hearing, action or proceeding before the Maine Board of Tax Appeals in accordance with Title 36, section 151-D.

Sec. 4. 36 MRSA §151, sub-§2, ¶E, as enacted by PL 2011, c. 694, §3, is amended to read:

E. A reconsidered decision rendered on any request other than a small claim request constitutes the assessor's final determination, subject to review ~~by~~ by either by the board or directly by the Superior Court. A reconsidered decision rendered on a small claim request constitutes the assessor's final determination and final agency action and is subject to de novo review by the Superior Court. For purposes of this paragraph, "small claim request" means a petition for reconsideration when the amount of tax or refund request in controversy is less than ~~\$5,000~~ \$1,000.

Sec. 5. 36 MRSA §151-A, sub-§2, as enacted by PL 1989, c. 848, §4, is amended to read:

2. Representative of taxpayer. The taxpayer may bring to any interview or informal conference with the State Tax Assessor or to any proceeding pursuant to section 151-D any attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to the interview, conference or proceeding but clearly states at any time during the ~~informal interview, conference or proceeding~~ that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer, the State Tax Assessor shall suspend the interview or conference or the board shall suspend the proceeding. The suspension must occur even if the taxpayer has answered one or more questions before that point in the interview, conference or proceeding. The conference must be rescheduled to be held within 10 working days.

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