

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1364

H.P. 986

House of Representatives, April 26, 1989

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative WHITCOMB of Waldo.

Cosponsored by Representative ROLDE of York, Representative LIBBY of Kennebunk and Representative TARDY of Palmyra.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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**RESOLUTION, Proposing an Amendment to the Constitution of  
Maine to Provide that Maximum Valuations be Established for  
Residential, Current Use and Undeveloped Real Estate Based on a  
Replacement Cost Less Depreciation Method of Assessment.**

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1           **Constitutional amendment. RESOLVED:** Two thirds of each  
2 branch of the Legislature concurring, that the following  
3 amendment to the Constitution of Maine be proposed:

5           **Constitution, Art. IX, §8,** as amended by CR 1983, c. 5, is  
6 repealed and the following enacted in its place:

7           Section 8. Taxation of property. All taxes upon real and  
8 personal estate, assessed by authority of this State, shall be  
9 apportioned and assessed equally according to the just value  
10 thereof.

11           1. The Legislature shall have power to levy a tax upon  
12 intangible personal property at such rate as it deems wise and  
13 equitable without regard to the rate applied to other classes of  
14 property.

15           2. The Legislature shall have power to provide for the  
16 assessment of the following types of real estate wherever  
17 situated in accordance with a valuation based upon the current  
18 use thereof and in accordance with such conditions as the  
19 Legislature may enact:

20           A. Farms and agricultural lands, timberlands and woodlands;

21           B. Open space lands which are used for recreation or the  
22 enjoyment of scenic natural beauty; and

23           C. Lands used for game management or wildlife sanctuaries.

24           In implementing paragraphs A, B and C, the Legislature shall  
25 provide that any change of use higher than those set forth in  
26 paragraphs A, B and C, except when the change is occasioned by a  
27 transfer resulting from the exercise or threatened exercise of  
28 the power of eminent domain, shall result in the imposition of a  
29 minimum penalty equal to the tax which would have been imposed  
30 over the 5 years preceding that change of use had that real  
31 estate been assessed at its highest and best use, less all taxes  
32 paid on that real estate over the preceding 5 years, and  
33 interest, upon such reasonable and equitable basis as the  
34 Legislature shall determine.

35           3. The Legislature shall require assessment by a single  
36 method of valuation be of all real estate that is both  
37 undeveloped and unrestricted by any law, rule or ordinance to  
38 commercial use only. The single method of valuation shall be  
39 equal to the countys' undeveloped acreage value as provided by  
40 the State Tax Assessor's office for the county in which the land  
41 is situated. This subsection does not include any real estate  
42 which is being assessed by current use under subsection 2. In  
43 implementing this subsection, real estate shall not be considered  
44

1 as developed by the mere provision for access onto or through the  
2 real estate.

3  
4 4. The Legislature shall require assessment of nonincome-  
5 producing residential property based solely on the replacement  
6 cost less depreciation of the real estate. In implementing this  
7 subsection, the land underlying any residential structures or  
8 developments shall be valued according to subsection 3. This  
9 subsection does not apply to condominium developments.

11 5. The Legislature shall cause the assessments in  
12 subsections 3 and 4 to occur within 4 years of the date of  
13 ratification of this amendment. Each assessment shall establish  
14 a maximum valuation for the real estate assessed.

15  
16 6. A maximum valuation for real estate being assessed by  
17 current use under subsection 2 shall be established by the first  
18 subsequent assessment of the real estate by the terms of  
19 subsection 2 that occurs after the ratification of this section.  
20 The Legislature shall require that the first subsequent  
21 assessment shall occur within 4 years from the date of  
22 ratification of this section.

23  
24 7. The State Tax Assessor shall cause municipalities to  
25 change each maximum valuation annually by a percentage equal to  
26 the annual percentage change in each county's per capita personal  
27 income in which the real estate is situated.

28  
29 8. After the maximum valuation is established under  
30 subsection 6, subsequent assessments shall be as follows:

31  
32 A. No subsequent assessment of value for property tax  
33 purposes shall exceed the last maximum valuation of the real  
34 estate unless the real estate has been changed from  
35 residential nonincome usage or the real estate has been  
36 developed in a manner other than ordinary maintenance or  
37 repair or the real estate is no longer being assessed under  
38 the terms of the current use assessment of subsection 2.

39  
40 B. If any event or combination of events in paragraph A  
41 occurs, the real estate shall be reassessed according to the  
42 terms of subsections 3 or 4, if applicable.

43  
44 C. If any event or combination of events in paragraph A  
45 occurs which allows the real estate to be taxed by current  
46 use assessment under subsection 2, then the maximum  
47 valuation shall be set according to the terms of subsection  
48 6.

49  
50 9. If the real estate which is subject to a maximum  
51 valuation is sold, the sale price shall become the new maximum  
valuation and shall be subsequently subject to the indexing of

1 subsection 7. The real estate sold shall then be taxed at its  
2 maximum valuation for a period of 2 complete tax years. Any  
3 developments to the real estate during that 2-year period shall  
4 increase the real estate's maximum valuation by the assessed  
5 value of the developments according to the terms of subsection  
6 4. After 2 full tax years have passed from the date of sale, the  
7 real estate shall be reassessed according this section, if  
8 applicable. If the sale price is lower than the prior maximum  
9 valuation and is shown to be other than the price that a  
10 reasonable arms-length transaction would produce, then the  
11 maximum valuation shall be set according to the sales price for  
12 comparable real estate sales. If the real estate is transferred  
13 by operation of law or gift, the maximum valuation shall not  
14 change from what it would have been, had the prior owner or  
15 owners not transferred the real estate.

17 10. The Legislature shall have power to provide that taxes  
18 that it may authorize a School Administrative District or a  
19 community school district to levy, may be assessed on real,  
20 personal or intangible property in accordance with any  
21 cost-sharing formula which it may authorize.

23 **Constitutional referendum procedure; form of question; effective**  
24 **date. Resolved:** That the city aldermen, town selectmen and  
25 plantation assessors of this State shall notify the inhabitants  
26 of their respective cities, towns and plantations to meet, in the  
27 manner prescribed by law for holding a statewide election, at a  
28 statewide election, on the Tuesday following the first Monday of  
29 November following the passage of this resolution, to vote upon  
30 the ratification of the amendment proposed in this resolution by  
31 voting upon the following question:

33 "Shall the Constitution of Maine be amended as proposed by a  
34 resolution of the Legislature to provide for maximum  
35 valuations for residential current use and undeveloped real  
36 estate based on a replacement cost less depreciation method  
37 of assessment?"

39 The legal voters of each city, town and plantation shall  
40 vote by ballot on this question, and shall designate their choice  
41 by a cross or check mark placed within the corresponding square  
42 below the word "Yes" or "No." The ballots shall be received,  
43 sorted, counted and declared in open ward, town and plantation  
44 meetings and returns made to the Secretary of State in the same  
45 manner as votes for members of the Legislature. The Governor  
46 shall review the returns and, if it appears that a majority of  
47 the legal voters are in favor of the amendment, the Governor  
48 shall proclaim that fact without delay and the amendment shall  
49 become part of the Constitution on the date of the proclamation.

51 **Secretary of State shall prepare ballots. Resolved:** That the  
Secretary of State shall prepare and furnish to each city,

1 town and plantation all ballots, returns and copies of this  
3 resolution necessary to carry out the purposes of this referendum.

5

#### STATEMENT OFF FACT

7

9 This amendment requires that maximum valuations be  
11 established for residential, current use and undeveloped real  
estate based on a replacement cost less depreciation method of  
assessment.