

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

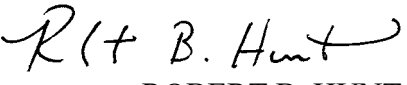
No. 1630

H.P. 1084

House of Representatives, April 15, 2025

An Act to Amend the Open Space Tax Law

Received by the Clerk of the House on April 11, 2025. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


ROBERT B. HUNT
Clerk

Presented by Representative SAYRE of Kennebunk.
Cosponsored by Senator BLACK of Franklin and
Representatives: BELL of Yarmouth, FRIEDMANN of Bar Harbor, Senators: BENNETT of
Oxford, INGWERSEN of York, TIPPING of Penobscot.

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

2 **Sec. 1. 36 MRSA §1102, sub-§4-A**, as enacted by PL 2011, c. 618, §5, is repealed.

3 **Sec. 2. 36 MRSA §1102, sub-§4-C** is enacted to read:

4 **4-C. Forest climate resilience and carbon management plan.** "Forest climate
5 resilience and carbon management plan" means a written document prepared by a licensed
6 professional forester that:

7 A. Describes activities to enhance, on forested land or farm woodland, climate
8 resilience or the storage or sequestration of forest carbon;

9 B. Identifies and describes specific activities, including specific silvicultural practices
10 recommended to meet the objectives described in paragraph A, including an adequate
11 scientific foundation for achieving those objectives;

12 C. Includes schedules, specific forest stand locations and acres and silvicultural
13 prescriptions for recommended practices; and

14 D. Includes a forest type map and locations of all water bodies and wetlands.

15 **Sec. 3. 36 MRSA §1102, sub-§6, ¶C**, as amended by PL 1989, c. 748, §1, is further
16 amended to read:

17 C. Promoting game management; or

18 **Sec. 4. 36 MRSA §1102, sub-§6, ¶D**, as amended by PL 1989, c. 748, §1, is further
19 amended to read:

20 D. Preserving or enhancing wildlife or wildlife habitat; or

21 **Sec. 5. 36 MRSA §1102, sub-§6, ¶E** is enacted to read:

22 E. Managing woodland for climate resilience or forest carbon storage and
23 sequestration.

24 **Sec. 6. 36 MRSA §1102, sub-§10**, as enacted by PL 2003, c. 619, §1 and amended
25 by PL 2011, c. 657, Pt. W, §5, is repealed.

26 **Sec. 7. 36 MRSA §1102, sub-§11** is enacted to read:

27 **11. Wildlife habitat.** "Wildlife habitat" means land that is:

28 A. Managed for the enhancement or protection of aquatic or terrestrial wildlife species;
29 or

30 B. Subject to a written management agreement between the landowner and either the
31 Department of Inland Fisheries and Wildlife or the Department of Agriculture,
32 Conservation and Forestry to ensure that the habitat benefits provided by the land are
33 not lost. Management agreements may be revised or updated by mutual consent of
34 both parties at any time. Management agreements must be renewed at least every 10
35 years.

36 "Wildlife habitat" under this paragraph must also meet one of the following criteria:

37 (1) The land is designated by the Department of Inland Fisheries and Wildlife as
38 supporting important wildlife habitat;

(2) The land supports the life cycle of any species of wildlife as identified by the Department of Inland Fisheries and Wildlife;

(3) The land is identified by the Department of Agriculture, Conservation and Forestry as supporting a natural vegetation community; or

(4) The land is designated as a resource protection area in a comprehensive plan, zoning ordinance or zoning map.

Sec. 8. 36 MRSA §1102, sub-§12 is enacted to read:

12. Wildlife habitat management plan. "Wildlife habitat management plan" means a written document prepared by a licensed professional forester or a wildlife biologist from the Department of Inland Fisheries and Wildlife that:

A. Describes activities to maintain or enhance wildlife habitat on a parcel;

B. Identifies and describes specific activities, including silvicultural and other practices to meet the objectives described in paragraph A, including schedules, specific natural community types or forest types, locations and acres and silvicultural prescriptions; and

C. Includes a map of forest types or natural community types and locations of all water bodies and wetlands.

Sec. 9. 36 MRSA §1106-A, as amended by PL 2017, c. 288, Pt. A, §43, is further amended to read:

§1106-A. Valuation of open space land

1. Valuation method. For the purposes of this subchapter, the current use value of open space land is the sale price that particular open space parcel would command in the marketplace if it were required to remain in the particular category or categories of open space land for which it qualifies under section 1102, subsection 6, adjusted by the certified ratio.

2. Alternative valuation method. Notwithstanding any ~~other~~ provision of law to the contrary, if an assessor is unable to determine the valuation of open space land under the valuation method in subsection 1, the assessor may value that land under the alternative method in this subsection. The assessor may reduce the ordinary assessed valuation of the land, without regard to conservation easement restrictions and as reduced by the certified ratio, by the cumulative percentage reduction for which the land is eligible according to the following categories.

A. All open space land is eligible for a reduction of ~~20%~~ 45%.

B. Permanently protected open space land is eligible for the reduction set in paragraph A and an additional ~~30%~~ 25%.

~~C. Forever wild open space land is eligible for the reduction set in paragraphs A and B and an additional 20%.~~

D. Public access open space land is eligible for the applicable reduction set in paragraph A, or B or C and an additional 25%.

~~E. Managed forest open space land is eligible for the reduction set in paragraphs A, B and D and an additional 10%.~~

1 F. Open space land on which an approved wildlife habitat management plan has been
2 completed is eligible for the reduction set in paragraph A or D and an additional 25%.
3 A wildlife habitat management plan must be presented with the application for
4 enrollment of eligible acres but remains confidential and is not a public record as
5 defined in Title 1, section 402, subsection 3.

6 A wildlife habitat management plan presented with the application is subject to the
7 following conditions:

8 (1) The plan must have been reviewed and certified by a licensed professional
9 forester as consistent with sound silvicultural practices;

10 (2) The implementation of the silvicultural measures identified in the plan must
11 be supervised and certified by a licensed professional forester; and

12 (3) The plan must be updated at least once every 10 years. The updated plan must
13 include all information required in the original plan, including recommended
14 practices for the next planning period. The plan update must also include a review
15 and certification that practices recommended in the previous planning period have
16 been completed.

17 G. Open space land on which an approved forest climate resilience and carbon
18 management plan has been completed is eligible for the reduction set in paragraph A
19 or D and an additional 25%. A forest climate resilience and carbon management plan
20 must be presented with the application for enrollment of eligible acres but remains
21 confidential and is not a public record as defined in Title 1, section 402, subsection 3.

22 A forest climate resilience and carbon management plan presented with an application
23 is subject to the following conditions:

24 (1) The plan must have been reviewed and certified by a licensed professional
25 forester as consistent with sound silvicultural practices;

26 (2) The implementation of the silvicultural measures identified in the plan must
27 be supervised and certified by a licensed professional forester; and

28 (3) The plan must be updated at least once every 10 years. The updated plan must
29 include all information required in the original plan, including recommended
30 practices for the next planning period. The plan update must also include a review
31 and certification that practices recommended in the previous planning period have
32 been completed.

33 Notwithstanding this section, the value of forested open space land may not be reduced to
34 less than the value it would have under subchapter 2-A, and the open space land valuation
35 may not exceed just value as required under section 701-A.

36 **3. Definition of land eligible for additional percentage reduction.** The following
37 categories of open space land are eligible for the additional percentage reduction set forth
38 in subsection 2, paragraphs B, C, D, F and E G.

39 A. Permanently protected open space is an area of open space land that is eligible for
40 an additional cumulative percentage reduction in valuation because that area is subject
41 to restrictions prohibiting building development under a perpetual conservation
42 easement pursuant to Title 33, chapter 7, subchapter 8-A or as an open space preserve

owned and operated by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H.

~~B. Forever wild open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because it is permanently protected and subject to restrictions or committed to uses by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H that ensure that in the future the natural resources on that protected property will remain substantially unaltered, except for:~~

- ~~(1) Fishing or hunting;~~
- ~~(2) Harvesting shellfish in the intertidal zone;~~
- ~~(3) Prevention of the spread of fires or disease; or~~
- ~~(4) Providing opportunities for low impact outdoor recreation, nature observation and study.~~

C. Public access open space is an area of open space land, whether ordinary; or permanently protected ~~or forever wild~~, that is eligible for an additional cumulative percentage reduction in valuation because public access is by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, nonmotorized and nondestructive public use. The applicant may permit, but is not obligated to permit as a condition of qualification for public access status, hunting, snowmobiling, overnight use or other more intensive outdoor recreational uses. The applicant, without disqualifying land from status as public access open space, may impose temporary or localized public access restrictions to:

- (1) Protect active habitat of endangered species listed under Title 12, chapter 925, subchapter 3;
- (2) Prevent destruction or harm to fragile protected natural resources under Title 38, chapter 3, subchapter 1, article 5-A; or
- (3) Protect the recreational user from any hazardous area.

~~D. Managed forest open space land is an area of open space land whether ordinary, permanently protected pursuant to paragraph A or public access pursuant to paragraph C containing at least 10 acres of forested land that is eligible for an additional cumulative percentage reduction in valuation because the applicant has provided proof of a forest management and harvest plan. A forest management and harvest plan must be prepared for each parcel of managed forest open space land and updated every 10 years. The landowner must comply with the forest management and harvest plan and must submit every 10 years to the municipal assessor for parcels in a municipality or the State Tax Assessor for parcels in the unorganized territory a statement from a licensed professional forester that the landowner is managing the parcel according to the forest management and harvest plan. Failure to comply with the forest management and harvest plan results in the loss of the additional cumulative percentage reduction under this paragraph for 10 years. The assessor or the assessor's duly authorized representative may enter and examine the forested land and may examine any information in the forest management and harvest plan submitted by the owner. A copy of the forest management and harvest plan must be made available to the assessor to review upon request. For the purposes of this paragraph, "to review" means to see~~

1 or possess a copy of a forest management and harvest plan for a reasonable amount of
2 time to verify that the forest management and harvest plan exists or to facilitate an
3 evaluation as to whether the forest management and harvest plan is appropriate and is
4 being followed. Upon completion of a review, the forest management and harvest plan
5 must be returned to the owner or an agent of the owner. A forest management and
6 harvest plan provided in accordance with this section is confidential and is not a public
7 record as defined in Title 1, section 402, subsection 3.

8 **Sec. 10. 36 MRSA §1109, sub-§3, ¶O**, as enacted by PL 2003, c. 619, §4 and
9 amended by PL 2011, c. 657, Pt. W, §5, is further amended to read:

10 O. Whether there is a written management agreement between the landowner and the
11 Department of Inland Fisheries and Wildlife or the Department of Agriculture,
12 Conservation and Forestry as described in section 1102, subsection 40 11.

13 **Sec. 11. 36 MRSA §1114**, as enacted by PL 1975, c. 726, §2, is amended to read:

14 **§1114. Application**

15 ~~No person can~~ A landowner may not apply for classification for more than an aggregate
16 total of 15,000 acres under this subchapter, unless the landowner is a nonprofit organization
17 that has been determined by the United States Internal Revenue Service to be exempt from
18 taxation under Section 501(c)(3) of the Code. The classification of farmland or open space
19 land ~~hereunder shall continue under this subchapter continues~~ until the municipal assessor,
20 or State Tax Assessor in the unorganized territory, ~~determine~~ determines that the land no
21 longer meets the requirements of ~~such~~ the classification.

22 **SUMMARY**

23 This bill makes changes to the valuation method for the open space tax law. It extends
24 eligibility for a reduced valuation to land managed under a forest climate resilience and
25 carbon management plan and to land on which an approved wildlife habitat management
26 plan has been certified. The bill allows a landowner determined to be a nonprofit
27 organization by the United States Internal Revenue Service to apply for classification for
28 more than an aggregate total of 15,000 acres under the laws governing the valuation of
29 open space land.

30 This bill also:

- 31 1. Increases the amount of the reduction of property taxes that land enrolled as open
32 space is eligible for from 20% to 45% and reduces the additional reduction of property
33 taxes that permanently protected open space land is eligible for from 30% to 25%;
- 34 2. Eliminates the additional percentage reduction in property taxes that forever wild
35 open space land and managed forest open space land is eligible for; and
- 36 3. Provides an additional 25% reduction in property taxes to open space land for which
37 an approved wildlife habitat management plan or forest climate resilience and carbon
38 management plan has been completed.