

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 14

H. P. 14

Office of the Clerk of the House

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BERTHA W. JOHNSON, Clerk

Presented by Mr. Evans of Freedom.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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AN ACT Providing for the Taxation and Preservation of Farm, Forest and  
Open Space Land.

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

R. S., T. 36, §§ 566 - 571, additional. Title 36 of the Revised Statutes is  
amended by adding 6 new sections to read as follows:

§ 566. Purpose

It is hereby declared that it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the State, to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State, that it is in the public interest to prevent the forced conversion of farm land, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land and open space land, and that the necessity in the public interest of the enactment of sections 566 to 571 is a matter of legislative determination.

§ 567. Definitions

When used in sections 566 to 571, unless the context otherwise indicates, the following words shall have the following meanings:

I. Farm land. "Farm land" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit.

2. Forest land. "Forest land" means any tract or tracts of land aggregating 25 acres or more in area bearing tree growth in such quantity and so spaced as to constitute in the opinion of the state forester a forest area and maintained in the opinion of the state forester in a state of proper forest condition.

3. Municipality. "Municipality" means any town, consolidated town and city, or consolidated town and borough.

4. Open space land. "Open space land" means any area of land, including forest land and not excluding farm land, the preservation or restriction of the use of which would:

- A. Maintain and enhance the conservation of natural or scenic resources;
- B. Protect natural streams or water supply;
- C. Promote conservation of soils, wetlands, beaches or tidal marshes;
- D. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;
- E. Enhance public recreation opportunities;
- F. Preserve historic sites; or
- G. Promote orderly urban or suburban development.

5. Plan of development. "Plan of development" means a plan of development, including any amendment thereto, prepared or adopted by the planning commission.

6. Planning commission. "Planning commission" means a planning commission created for the purpose of planning in any municipality.

#### § 568. Classification as farm land

An owner of land may apply for its classification as farm land on any assessment list of a municipality by filing a written application for such classification with the assessor of such municipality not earlier than 30 days before nor later than 30 days after the date of such assessment list. Such assessor shall determine whether such land is farm land and, if he determines that it is farm land, he shall classify and include it as such on such assessment list. In determining whether such land is farm land, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith and the extent to which the tracts comprising such land are contiguous. An application for classification of land as farm land shall be made upon a form prescribed by the tax assessor and shall set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor may require to aid him in determining whether such land qualifies for such classification.

Failure to file an application for classification of land as farm land, within the time limit prescribed and in the manner and form prescribed, shall be considered a waiver of the right to such classification on such assessment list.

Any person aggrieved by the denial of any application for the classification of land as farm land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of tax review.

§ 569. Designation as forest land

An owner of land may file a written application with the state forester for its designation by the state forester as forest land. When such application has been made, the state forester shall examine the land and, if he determines that it is forest land, he shall issue a triplicate certificate designating it as such, and file one copy of such certificate in his office, furnish one to the owner of the land and file one in the office of the assessor of the municipality in which the land is located. When requested to do so by such assessor or whenever he deems it necessary, the state forester shall reexamine land designated by him as forest land and, if he finds that it is no longer forest land, he shall issue a triplicate certificate cancelling his designation of such land as forest land, and file one copy of such certificate in his office, furnish one to the owner of the land and file one in the office of such assessor. An owner of land, designated as forest land by the state forester, may apply for its classification as forest land on any assessment list of a municipality by filing a written application for such classification with the assessor of such municipality not earlier than 30 days before nor later than 30 days after the date of such assessment list and, if the state forester has not cancelled his designation of such land as forest land as of a date at or prior to the date of such assessment list, such assessor shall classify such land as forest land and include it as such on such assessment list.

An application to the state forester for designation of land as forest land shall be made upon a form prescribed by the state forester and approved by the State Tax Assessor and shall set forth a description of the land and such other information as the state forester may require to aid him in determining whether such land qualifies for such designation. An application to an assessor for classification of land as forest land shall be made upon a form prescribed by such assessor and approved by the State Tax Assessor and shall set forth a description of the land, the date of the issuance by the state forester of his certificate designating it as forest land.

Failure to file an application for classification of land as forest land, within the time limit prescribed and in the manner and form prescribed, shall be considered a waiver of the right to such classification on such assessment list.

The municipality within which land designated as forest land by the state forester is situated or the owner of land which the state forester has refused to designate as such may appeal from the decision of the state forester to the Superior Court for the county within which such municipality is situated. Such appeal shall be taken within 30 days after the issuance of the certificate designating such land as forest land or the refusal to issue such certificate,

as the case may be, and shall be brought by petition in writing with proper citation signed by competent authority to the adverse party at least 12 days before the return day. The Superior Court shall have the same powers with respect to such appeals as are provided in the general statutes with respect to appeals from boards of tax review.

An owner of land aggrieved by the denial of any application to the assessor of a municipality for classification of land as forest land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of tax review.

#### § 570. Planning commission ; open space land

The planning commission of any municipality in preparing a plan of development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation, if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification. An owner of land, included in any area designated as open space land upon any plan as finally adopted, may apply for its classification as open space land on any assessment list of a municipality by filing a written application for such classification with the assessor of such municipality not earlier than 30 days before nor later than 30 days after the date of such assessment list. Such assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if he determines that there has been no such change, he shall classify such land as open space land and include it as such on such assessment list. An application for classification of land as open space land shall be made upon a form prescribed by the tax assessor and shall set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor may require to aid him in determining whether such land qualifies for such classification.

Failure to file an application for classification of land as open space land, within the time limit prescribed and in the manner and form prescribed, shall be considered a waiver of the right to such classification on such assessment list.

Any person aggrieved by the denial by an assessor of any application for the classification of land as open space land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of review.

#### § 571. Value

The present true and actual value of any estate, land classified as farm land pursuant to section 568, as forest land pursuant to section 569, or as

open space land pursuant to section 570, shall be based upon its current use without regard to neighboring land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such open space land comprised a part of a tract or tracts of land classified as farm land pursuant to section 568. The present true and actual value of all other property shall be deemed by all assessors and boards of tax review to be the fair market value thereof and not its value at a forced or auction sale.

#### STATEMENT OF FACT

The purpose of this legislation is expressed in Title 36, section 566 — the first section of the bill.