

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 1666

H. P. 1194

House of Representatives, March 17, 1971

Referred to Committee on Taxation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Martin of Eagle Lake.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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AN ACT Relating to Forest Land Taxation.

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

Sec. 1. R. S., T. 36, c. 105, sub-c. II-A, additional. Chapter 105 of Title 36 of the Revised Statutes, as amended, is further amended by adding a new subchapter II-A to read as follows:

SUBCHAPTER II-A  
FOREST LANDS

§ 571. Purpose

The Legislature finds that taxation of the forest lands of the State requires a uniform policy through which revenues can be proportioned to the productivity of said lands in a fair and equitable manner. The Legislature further finds that the forest lands of the State constitute a unique economic and recreational resource, and that a balanced program for the preservation of that resource is essential to the happiness, welfare and prosperity of the inhabitants of the State.

In order to effect the foregoing policy it is essential to create a uniform procedure for designating, valuing and taxing forest lands in a manner which provides equity, precision in assessment, adequate revenue to the State and municipalities, and prevents the depletion and despoliation of forest resources resulting from nonuniform assessment practices.

§ 572. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. **Commercial use.** "Commercial use" means use for any purpose, other than a forest land use or farming use, wherein the land is being used for purposes of engaging in a commercial enterprise.

2. **Forest land.** "Forest land" means any contiguous parcel of land consisting of 25 acres or more which is devoted primarily to the growth and harvest of forest crops, and is not serviced by water or sewer lines.

3. **Forest types.** "Forest types" means a classification of forest areas based upon the predominant species composition of the present tree cover.

4. **Rate of capitalization.** "Rate of capitalization" means the rate to be applied to estimated future income to determine the estimated present value based upon future income.

5. **Taxable year.** "Taxable year" means April 1st to March 31st.

6. **Weighted average of millage rate.** "Weighted average of millage rate" means the current state valuation at 100% of value divided into the total municipal property tax levy for the previous year.

#### § 573. Forest Land Tax Advisory Board

1. **Board.** There is established a Forest Land Tax Advisory Board.

2. **Membership.** The board shall consist of 5 members, each with a suitable background in forestry, economics or taxation, who shall be appointed by the Governor with the consent of the Executive Council for terms of 4 years. In the event of the death or resignation of a member before the expiration of his term the Governor shall make an appointment to serve for the duration of the unexpired term.

3. **Compensation.** The members of the board shall serve without compensation but shall be reimbursed for actual and necessary expenses by the State Tax Assessor.

#### § 574. Powers and duties

1. **Purposes.** The board shall meet at least once prior to January 15th of each year for the following purposes:

A. To establish a capitalization rate to be applied in determining the productivity value of forest lands;

B. To compute a schedule of stumpage prices for each forest type being assessed by the State Tax Assessor;

C. To establish the annual per acre growth increment of each forest type, utilizing the latest U. S. Forest Service information, and other available sources.

2. **Findings.** The Forest Land Tax Advisory Board shall certify its findings to the State Tax Assessor on or before February 1st of each year, and simultaneously make public its findings by publication in some newspaper in each county in the State.

3. **Hearings.** The board is authorized to hold one or more public hearings each year for the purpose of receiving evidence relating to an appropriate capitalization rate and establishing stumpage prices.

A. The board shall promulgate regulations applicable to the conduct of such hearings.

#### § 575. Forest Land Appeals Board

1. **Appeals board.** There is established a Forest Land Appeals Board which shall function within the office of the State Tax Assessor as a separate entity.

2. **Membership.** The board shall have 5 members consisting of the following:

A. The State Tax Assessor;

B. The Forest Commissioner;

C. Three members shall be municipal assessors at the time of appointment, and each shall be appointed by the Governor with the consent of the Executive Council for a term of 2 years.

3. **Chairman.** The board shall annually elect one of its members as chairman.

4. **Compensation.** The members of the board shall serve without compensation but shall be reimbursed for actual and necessary expenses by the office of the State Tax Assessor.

#### § 576. Powers and duties

1. **Rules and regulations.** The board shall adopt and amend such rules and regulations not inconsistent with the Constitution or laws of this State which may be necessary for the proper performance of its duties and the regulations of proceedings before it.

2. **Meetings.** The board shall be convened by the chairman at his discretion.

#### § 577. Valuation of forest lands as determined by the State Tax Assessor

1. **Current use value.** The State Tax Assessor shall determine the current use value of all forest lands in the municipalities and unorganized territories, utilizing the productivity of said lands as the basis for determining value.

A. All owners of forest land in the several organized municipalities and in unorganized territory shall, notwithstanding section 1181, on or before the first day of February of each year, and at such other times as the State Tax Assessor shall require, render to the State Tax Assessor a signed schedule of all forest lands thus owned, either in common or severalty, with a description of the location of said land, the number of acres constituting each parcel of land so owned, and a general description of the

forest growth thereon. The information so required shall be filed on a form approved and provided by the State Tax Assessor.

B. The State Tax Assessor may require the assessors of any organized municipality to provide him with information, including the description, quantity and growth upon said lands.

C. Upon notice in writing any such owner shall either in person or by authorized agent appear before the State Tax Assessor at such reasonable time and place as the State Tax Assessor may designate and answer such questions or interrogatories as said Tax Assessor may deem necessary in order to obtain a full knowledge of the value, ownership and description of said lands.

D. If any owner does not render such schedule to the State Tax Assessor on or before the first day of February or, after notice, fails or refuses to appear before the State Tax Assessor and to answer such questions or interrogatories, he shall be deemed to have waived his right of appeal pursuant to section 581.

2. Determination. The State Tax Assessor, utilizing recommendations of the Forest Commissioner, shall determine whether the returns provided for under subsection 1 qualify pursuant to section 572, subsection 2. The determination of the State Tax Assessor shall be prima facie evidence relating to the question of whether any land is so qualified.

3. Notice to municipalities and applicant. Upon determining that any such land located within an organized municipality is qualified pursuant to section 572, subsection 2, the State Tax Assessor shall, prior to April 1st, provide the assessors of said town with a certified copy of the return describing the qualified land. Whenever the State Tax Assessor finds that any such land located within an organized municipality is not so qualified, he shall notify the applicant in writing prior to April 1st of his refusal to classify the land pursuant to subsection 2.

4. Computation of productivity value. Utilizing the returns provided for under subsection 1, and other available information including maps and aerial photographs, the State Tax Assessor shall compute the productivity value of all forest land on the basis of the following criteria:

A. Forest types on the land;

B. Annual per acre growth increment of each said type as determined by the Forest Land Advisory Board;

C. Stumpage value of each type as determined by the Forest Land Tax Advisory Board.

D. A rate of capitalization as determined by the Forest Land Tax Advisory Board, which shall be applied to the sum of the foregoing criteria.

§ 578. Assessment of tax upon forest lands in the organized municipalities

1. Notice to assessors. Upon determining the value of forest land in each

organized municipality the State Tax Assessor immediately shall provide the assessors of said organized municipality with a list of said lands and a valuation for each parcel of said land, adjusted by a percentage equal to the percentage of 100% valuation on which property in said organized municipality is assessed, as determined by the State Tax Assessor on the basis of the most recent state valuation.

2. Millage rate. In determining the tax to be assessed upon said land, the assessors of each town shall then apply to such adjusted valuation a millage rate equal to whatever millage rate is being applied to other property in the town.

#### § 579. Assessment of tax upon forest lands in the unorganized territory

1. Full value. Notwithstanding the provisions of sections 208 and 381, all lands not included in any municipality or township and qualified pursuant to section 572, subsection 2 shall be assessed upon 100% of the valuation thereon.

2. Millage rate. A tax shall be assessed annually upon said land at a millage rate equal to the weighted average of the millage rates applied to similarly qualified lands in the organized municipalities. The valuation of said land as determined by the State Tax Assessor, pursuant to section 577, subsection 4 shall be the basis for the computation of the tax.

3. General fund. Upon collection by the State Tax Assessor, such taxes shall be deposited in the General Fund in accordance with section 342.

#### § 580. County taxes

The State Tax Assessor shall determine for each county the total valuation of land in the unorganized territory assessed pursuant to section 577. He shall multiply such total valuation for each county by the millage rate certified for each such county pursuant to Title 30, section 254, and said sum for each county shall be credited on the books of the State to the proper fiscal officer of said county pursuant to section 342.

#### § 581. Appeals

1. Written application. Any person aggrieved by a decision of the State Tax Assessor pursuant to section 577, subsection 2 may, within 30 days of notification, apply in writing to the Forest Land Appeals Board for review of said decision in whole or in part.

2. Denial. In the event the board denies the appeal in writing or fails to give written notice of their decision within 60 days of receipt of the application, the aggrieved person may appeal within 30 days of actual or implied denial for review to the Superior Court in the county in which the land in question is located. Such appeal shall be taken in accordance with section 589.

3. Notification. Whenever the board after review alters the classification of the land pursuant to section 577, subsection 2, they shall within 10 days give notification in writing of said decision to the applicant, the State Tax

Assessor, and, if the land is located in an organized municipality, to the assessors of said municipality.

§ 582. Appeal of finding of Forest Land Tax Advisory Board

Any finding made by the Forest Land Tax Advisory Board pursuant to section 574, subsection 1 shall be subject to review by a Justice of the Superior Court by an appeal taken within 15 days of the date of certification and publication of such findings upon complaint filed by an aggrieved owner, or owners, in the Superior Court for the county in which such owner, or any such owners, own land subject to this subchapter. The court shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court may modify, amend or affirm the findings in whole or in part in accordance with the law and the weight of the evidence. The court shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any finding pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.

§ 583. Abatement of tax in organized municipality

1. Application. The Forest Land Appeals Board, upon receipt of written application within one year from date of commitment stating the grounds therefor, may order whatever abatement they think reasonable, taking into consideration only the classification of forest types on the land made by the State Tax Assessor, providing the taxpayer has complied with section 577, subsection 1, paragraph A. In the event such abatement is sought on grounds other than the classifications of forest types on the land made by the State Tax Assessor, the provisions relating to abatement in sections 841 to 845 shall apply.

2. Notification and denial. Within 90 days of receipt of said application for abatement the board shall give written notification of its decision to the applicant, the State Tax Assessor, and the assessors of the municipality in which the land is located. Whenever the board fails to give such written notice within 90 days the application shall be deemed to have been denied. The applicant may appeal a denial to the Superior Court in the county wherein the land is located.

§ 584. Abatement of tax in unorganized territory

1. Application. Notwithstanding section 101, the Forest Land Appeals Board, upon receipt of written application within one year from date of billing, stating the grounds therefor, may order whatever abatement they think reasonable, providing the taxpayer has complied with section 577, subsection 1, paragraph A.

2. Notification and denial. Within 90 days of receipt of said application for abatement the board shall give written notification of its decision to the applicant and State Tax Assessor. Whenever the board fails to give such written notice within 90 days the application shall be deemed to have been denied. The applicant may appeal a denial to the Superior Court in the county wherein the land is located.

**§ 585. Change in use**

Whenever any parcel of land previously qualified pursuant to section 572, subsection 2 is, or will be within the taxable year, dedicated in whole or in part to a different use, the owner of said land shall furnish the State Tax Assessor within the taxable year with a writing describing in detail the nature of such use, the amount and specific location of the land to be dedicated to such use, and the estimated cost of converting to the new use.

Any owner who fails to provide the State Tax Assessor with such notice within the taxable year shall have waived his right of appeal pursuant to sections 575, 576, 577 and 586.

**§ 586. Ad valorem assessment**

Property which has been converted from forest land to another use thereafter shall be assessed ad valorem by the State Tax Assessor when such land is located in the unorganized territory, and by the municipal assessors when such land is located in a municipality.

**§ 587. Forest land transfer use tax**

1. Computation of tax. Whenever it shall appear from the information required by section 578 that the property is being rededicated to a commercial use, the State Tax Assessor shall determine the just value of the land, or the value in use if otherwise required by law, and thereupon levy a use transfer tax upon the land which shall be equal to a percentage of the difference between the just value, or the value in use if otherwise required by law, as determined by the State Tax Assessor, and the most recent productivity value determined pursuant to section 577, subsection 4. The percentage shall be 10% of the difference when conversion to the new use takes place during the taxable year beginning April 1, 1972, 20% during the taxable year beginning April 1, 1973, 30% during the taxable year beginning April 1, 1974, 40% during the taxable year beginning April 1, 1975, and 50% thereafter.

2. General fund. Any such tax levied upon land in the unorganized territory shall be deposited in the General Fund.

3. Municipal tax collector. Any such tax levied upon land in an organized municipality shall be remitted by the Treasurer of State to the collector of taxes in said municipality.

4. Abatement. Any owner may apply for abatement of the forest land transfer use tax by making written application therefor within the taxable year in which said tax is levied to the Forest Land Appeals Board stating the reasons for such abatement. The board may make whatever abatement they think reasonable, providing the taxpayer has complied with section 585. Any such application shall be governed by the provisions of section 584, subsection 2.

**§ 588. Appeals to Superior Court**

Appeals to the Superior Court provided for in sections 581, 583 and 584



shall be taken within 30 days after notice of the decision from which the appeal is being taken, or within 30 days after the application shall have been deemed to have been denied. Notice thereon shall be ordered by said court, and said appeal shall be tried, heard and determined by the court without a jury in the manner and with the rights provided by law in other civil cases so heard.

**Sec. 2. R. S., T. 12, § 1601, amended.** Section 1601 of Title 12 of the Revised Statutes, as amended, is further amended by adding at the end the following new paragraph.

This section shall not be applicable to lands assessed pursuant to Title 36, section 577. However, an amount equivalent to the total valuation of such lands made pursuant to Title 36, section 577, subsection 4 and multiplied by  $8\frac{1}{2}$  mills shall be kept in the separate account provided in section 1607.

#### STATEMENT OF FACT

The purpose of this bill is stated in the first section — § 571.