

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
105TH LEGISLATURE

HOUSE AMENDMENT "A " to H. P. 1418, L. D. 1834, Bill, "AN ACT Providing for the Taxation and Preservation of Farm, Forest and Open Space Land."

Amend said Bill in the Title by striking out the word "Forest"

Further amend said Bill by striking out everything after the enacting clause and inserting in place thereof the following:

'R. S., T. 36, c. 105, sub-c.II-B, additional. Chapter 105 of Title 36 of the Revised Statutes, as amended, is further amended by adding a new subchapterII-B to read as follows:

SUBCHAPTER II-B

FARM AND OPEN SPACE LAND LAW

§ 585. Purpose

It is declared that it is in the public interest to encourage the preservation of farmland 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 farmland 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 farmland and open space land, and that the necessity in the public interest of the enactment of

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this subchapter is a matter of legislative determination.

§ 586. Definitions

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

1. Farmland. "Farmland" means any tract or tracts of land including woodland and wasteland constituting a farm unit of at least 10 contiguous acres on which farming activities produce a gross income of at least \$1,000 per year for 3 of the 5 calendar years preceding the date of application for classification.

2. Open space land. "Open space land" means any area of land, including state wildlife and management areas, sanctuaries and preserves designated as such in Title 12, forest land and farmland, the preservation or restriction of the use of which would:

A. Conserve scenic resources;

B. Enhance public recreation opportunities;

C. Promote game management; or

D. Preserve wildlife.

3. Comprehensive plan. "Comprehensive plan" means a plan of development, including any amendment thereto, prepared or adopted by the planning board.

4. Planning board. "Planning board" means a planning board created for the purpose of planning in any municipality or the Maine Land Use Regulation Commission in the unorganized

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territory.

§ 587. Classification as farmland

An owner of land may apply for its classification as farmland by filing a written application for such classification on or before April 1st with the assessors of the municipality in which such land is located, or with the State Tax Assessor if the land is not within a municipality. The municipal assessors, or the State Tax Assessor, to whom an application has been made, shall determine whether such land is farmland and, if so, it shall be so classified and identified on the assessment list. In determining whether such land is farmland, there shall be taken 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. All applications for classification of land as farmland shall be made upon a form prescribed by the State Tax Assessor and shall set forth a description of the land, including the total acreage thereof, a general description of the use to which it is being put, the gross income derived from farming activities on the land in the 5 previous calendar years and such other information as may aid in determining whether such land qualifies for such classification.

Failure to file an application for classification of land as farmland, within the time prescribed and in the manner and form prescribed, shall be considered a waiver of the right to

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such classification for the next property tax year.

§ 588. Planning board; open space land

The planning board of any municipality in preparing a comprehensive plan for such municipality or the Maine Land Use Regulation Commission in preparing a comprehensive plan for the area not within a 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, or any other owner of land who believes that his land should qualify as open space land, may apply for its classification as open space land by filing a written application for such classification on or before April 1st with the municipality in which the land is located or with the State Tax Assessor if the land is not within a municipality. The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the comprehensive plan which adversely affects its essential character as an area of open space land and if he determines that there has been no such change, such land shall be so classified and identified on the assessemnt list. An application for classification of land as open space land shall be made upon a form prescribed by the State Tax Assessor and shall set forth a

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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. The application must first be approved as to its compliance with respect to the comprehensive plan. Such approval shall be given by the planning board for land within a municipality and by the Maine Land Use Regulation Commission for land not within a municipality.

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 for the next property tax year.

§ 589. Scenic easements and development rights

Any municipality may, through donation or the expenditure of public funds, accept or acquire scenic easements or development rights for preserving property for the preservation of agricultural farmland or open space. The term of such scenic easements or development rights must be for a period of at least 10 years.

§ 590. Value

The present true and actual value of any land classified as farmland pursuant to section 587 or as open space land pursuant to section 588 shall be based upon its current use as determined by the State Tax Assessor.

The recommended current use values determined by the State Tax Assessor shall be transmitted to all assessors of municipalities on or before April 1st. The State Tax Assessor shall use such

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values as to lands in the unorganized territory.

Municipal assessors must consider the recommended values published by the State Tax Assessor, but nothing in the law requires them to use the values recommended.

While municipal assessors are not required to use the values recommended, if they do not, they must be prepared to explain their system of arriving at the values used during any appeal procedure. The aggrieved property owner shall have the burden to prove the assessors in error.

§ 591. Recapture penalty

Any change in use disqualifying land for classification under sections 587 or 588, except when the change is occasioned by a transfer resulting from the exercise of the power of eminent domain, shall cause a penalty to be assessed by the assessors of the municipality in which the land is located, or by the State Tax Assessor if the land is not within a municipality, in addition to the annual tax in the year of disqualification.

Such penalty shall be equal to the total amount of taxes which would have been assessed in each of the years the land was classified preceding such change of use, had such real estate been assessed at its highest and best use, less all the taxes paid on said real estate over the preceding years it was classified, plus interest at an annual rate of 8% computed to accrue on the sums by which assessments were reduced by current use valuation. In the case of open space land the maximum recapture penalty shall be for a period not to exceed 15 years and in the case of farmland for a maximum period not to exceed 10 years.

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§ 592. Enforcement provision

There shall be a tax lien to secure the payment of the penalty provided in section 591. Such a lien may be enforced in the same manner as liens on real estate created by Title 36, section 552.

§ 593. Application

No person can apply for classification for more than an aggregate total of 15,000 acres under this subchapter. The classification of farm land or open space land hereunder shall continue until the municipal assessors or State Tax Assessor, in the unorganized territory, determine that the land no longer meets the requirements of such classification.

Statement of Facts

The purpose of this amendment is to delete forest lands which are covered by other legislation and to authorize the State Tax Assessor to determine the current use values of farmland and open land. In addition, various technical amendments have been made.

Filed by Mr. Evans of Freedom.

Reproduced and distributed under the direction of the Clerk of the House.

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