

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(EMERGENCY)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1411

H. P. 1073

House of Representatives, March 8, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Finemore of Bridgewater.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Amending the Maine Tree Growth Tax Law.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are certain ambiguities and needs for clarification in the Maine Tree Growth Tax Law, which was enacted in the 1971 special session of the 105th Legislature; and

Whereas, the Maine Tree Growth Tax Law will become applicable to the property tax year commencing on April 1, 1973; and

Whereas, the following legislation is vitally necessary to avoid the uncertainty which might arise as a result of such ambiguities; and to provide for the efficient administration of this law for the benefit of the State of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 36, § 572, amended. Section 572 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended by adding after the 2nd paragraph a new paragraph to read as follows:

This subchapter implements the 1970 amendment of Section 8 of Article IX of the Maine Constitution providing for valuation of timberland and woodlands according to their current use by means of a classification and averaging system designed to provide efficient administration.

Sec. 2. R. S., T. 36, § 573, sub-§ 3, amended. Subsection 3 of section 573 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

3. Forest land. "Forest land" means land ~~held~~ used primarily for growth of trees and forest products, but shall not include ledge, marsh, open swamp, bog, water and similar areas, which are unsuitable for growing a forest type even though such areas may exist within forest lands. **Land which would otherwise be included within this definition shall not be excluded because of multiple use for public recreation.**

Sec. 3. R. S., T. 36, § 574, amended. Section 574 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

§ 574. Applicability

This subchapter shall have mandatory application to any parcel **which contains more than 500 acres of forest land** ~~consisting of more than 500 acres and an.~~ **An owner of a parcel of containing forest land of 500 acres or less may apply at his election by filing with the assessor the schedule provided for in section 579; except that this subchapter shall not apply to any parcel containing less than 10 acres of forest land.** ~~In cases of common and undivided ownership of forest land, the~~ **The election to apply shall require the unanimous consent of all owners of an interest in a parcel, except for the State of Maine which is not subject to taxation hereunder.**

Sec. 4. R. S., T. 36, § 576, amended. The 4th paragraph and the first sentence of the 5th paragraph of section 576 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, are amended to read as follows:

After the State Tax Assessor has made the foregoing determinations, he shall apply a 10% capitalization rate **to the value of the annual net wood production** to determine the 100% valuation per acre for each forest type for each area and shall state the wood production rates and values used to compute same.

The State Tax Assessor shall hold one or more public hearings, with such reasonable notice to the public as he shall determine, upon the foregoing matters to be determined, shall provide for a transcript thereof, and shall issue an order or orders stating said determinations on or before August 1, 1972 and on or before June 1st **biennially** thereafter.

Sec. 5. R. S., T. 36, § 576-A, additional. Title 36 of the Revised Statutes is amended by adding a new section 576-A to read as follows:

§ 576-A. Valuation of areas other than forest land

Areas other than forest land within any parcel of forest land shall be valued on the basis of fair market value.

Sec. 6. R. S., T. 36, § 577, amended. Section 577 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

§ 577. Reduced valuation under special circumstances

1. In the case of forest land areas exceeding one acre which on January 1, 1972 did not contain more than 3 cords per acre of wood which was merchantable for forest products, the valuation shall be reduced by 50% for a period of 10 property tax years, from April 1, 1973 to April 1 through March 31, 1983. ~~In determining the applicability of this provision, the assessor may request a report and recommendation from the State Service Forester for the applicable county~~

2. In the case of forest land areas upon which, at any time after January 1, 1972 the trees are destroyed by fire, disease, insect, infestation or other natural disaster, so that the area contains not more than 3 cords per acre of wood which is merchantable for forest products, the valuation of that specific land area shall be reduced by 75% for the first 10 property tax years following the loss.

3. In order to obtain a reduced valuation, the landowner shall make a written request to the assessor on or before January 1st of the preceding tax year, presenting facts in affidavit form which meet either of the foregoing requirements. The assessor may investigate the facts, utilizing the procedures set forth in section 579, and shall then determine whether the requirements for reduced valuation are met. If the requirements are met, such forest land areas shall be assessed on the reduced basis herein provided.

4. In determining the applicability of this section, the assessor may request a report and recommendation from the Forest Commissioner.

Sec. 7. R. S., T. 36, § 578, sub-§ 1, amended. The 3rd sentence of subsection 1 of section 578 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

If the April 1, 1973 total assessed valuation of forest lands under this subchapter in a municipality is more than 10% less than the April 1, 1972 total assessed valuation of such forest lands in that municipality, the assessors shall adjust the April 1, 1973 assessed values of such forest lands proportionately back to a 10% aggregate change.

Sec. 8. R. S., T. 36, § 578, sub-§ 2, amended. The 3rd sentence of subsection 2 of section 578 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

If the April 1, 1973 total assessed valuation of forest lands under this subchapter for the entire unorganized territory is more than 10% less than the

April 1, 1972 total assessed valuation of **such** forest lands for the entire unorganized territory, the State Tax Assessor shall adjust the April 1, 1973 assessed values of **such** forest lands **proportionately** back to a 10% aggregate change.

Sec. 9. R. S., T. 36, § 578, sub-§ 3, amended. Subsection 3 of section 578 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

3. Divided ownership. In cases of divided ownership of land and the timber and grass rights thereon, the assessor shall apportion ~~the valuation of the forest land on the basis of the fair market values of the respective interests therein~~ 10% of the valuation to the land and 90% of the valuation to the timber and grass rights.

Sec. 10. R. S., T. 36, § 579, amended. The first, 4th and 5th paragraphs of section 579 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, are amended to read as follows:

The owner or owners of ~~any parcel of~~ forest land subject to taxation under this subchapter shall submit a signed schedule in ~~triplicate~~ **duplicate** on or before November 1, 1972, ~~and at such other times as the assessor may require of the year preceding that in which such land first becomes subject to taxation under this subchapter,~~ to the assessor upon a form to be prescribed by the State Tax Assessor, identifying the land to be taxed hereunder, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is ~~held~~ **used** primarily for growth of forest products. **Such schedules may be required at such other times as the assessor may designate upon 90 days' written notice.**

Upon notice in writing by certified mail, return receipt requested, or by such other method as provides actual notice, any ~~such~~ owner or owners shall appear, ~~either in person or by authorized agent~~ before the assessor, at such reasonable time and place as the assessor may designate and answer such questions or interrogatories as the assessor may deem necessary to obtain material information about said lands.

If the owner or owners of any parcel of forest land subject to taxation under this subchapter fail to submit the schedules under the foregoing provisions of this section or fail to provide information after notice duly received as provided under this section, such owner or owners shall be deemed to have waived all rights of appeal pursuant to ~~sections 582 and section 583~~ for the next property tax year **except for the determination that the land is subject to taxation under this subchapter.**

Sec. 11. R. S., T. 36, § 579, amended. Section 579 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended by adding at the end a new paragraph to read as follows:

For the purposes of this section, the acts of owners specified in this section may be taken by an authorized agent of an owner.

Sec. 12. R. S., T. 36, § 581, amended. The first and 2nd paragraphs of section 581 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, are amended to read as follows:

If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor may withdraw the ~~land parcel~~ from taxation under this subchapter. The owner of land subject to this subchapter may at any time ~~withdraw request withdrawal of~~ any parcel, or portion thereof, from taxation under this subchapter by certifying to the assessor that the land is no longer ~~held~~ used primarily for growth of forest products.

In the case of withdrawal of a portion of a parcel, the owner, as a condition of withdrawal, shall file with the assessor and, upon granting of withdrawal, in the applicable registry of deeds, a plan prepared by a registered surveyor showing the area withdrawn and the area remaining under this subchapter. In the case of withdrawal of a portion of a parcel, the resulting portions shall be treated thereafter as separate parcels under section 708.

In either case, and except when the change is occasioned by a transfer to the State or other entity holding the power of eminent domain, resulting from the exercise or threatened exercise of ~~the~~ that power of eminent domain, withdrawal shall impose a penalty upon the owner which shall be the greater of (a) an amount equal to the taxes which would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with April 1, 1973 the year in which the property was first classified, preceding such withdrawal had such real estate been assessed in each of those years at its fair market value on the date of withdrawal less all taxes paid on said real estate over the preceding 5 years, and interest at the legal rate from the date or dates on which said amounts would have been payable or (b) an amount computed by multiplying the amount, if any, by which the fair market value of the real estate on the date of withdrawal exceeds the 100% valuation of the real estate pursuant to this subchapter on the preceding April 1st, by the following rates: 10% from April 1, 1973 to March 31, 1978, 20% from April 1, 1978 to March 31, 1983 and 30% after March 31, 1983.

Sec. 13. R. S., T. 36, §§ 581-A and 581-B, additional. Title 36 of the Revised Statutes is amended by adding 2 new sections, 581-A and 581-B, to read as follows:

§ 581-A. Sale of a portion of a parcel of forest land

Sale of a portion of a parcel of forest land subject to taxation under this subchapter shall not affect the taxation under this subchapter of the resulting parcels, unless they are less than 10 acres in area. Each resulting parcel shall be taxed to the owners under this subchapter until such parcel is withdrawn from taxation under this subchapter, in which case the penalties provided for in sections 579 and 581 shall apply only to the owner of such parcel. If a parcel resulting from such sale is less than 10 acres in area, such parcel shall be considered as withdrawn from taxation under this subchapter as a result of such sale.

§ 581-B. Reclassification and withdrawal in unorganized territory

In the case of reclassification or withdrawal of forest land in the unorganized territory, the State Tax Assessor shall make such supplementary assessments or abatements as may be necessary to carry out this subchapter.

Sec. 14. R. S., T. 36, § 582, sub-§ 1, amended. The first sentence of subsection 1 of section 582 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

Any person aggrieved by any order ~~or determination~~ of the State Tax Assessor ~~under section 576~~ may petition him for reconsideration of that ~~action~~ order within 30 days of the issuance of that order ~~or the making of that determination~~.

Sec. 15. R. S., T. 36, § 582, sub-§ 1, amended. Subsection 1 of section 582 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended by adding at the end a new sentence to read as follows:

If the State Tax Assessor fails to give written notice of his decision within 90 days of the filing of a petition for reconsideration, the petition shall be deemed to have been denied, and the petitioner may appeal as provided, unless the petitioner shall in writing have consented to further delay.

Sec. 16. R. S., T. 36, § 582, sub-§ 2, amended. The first sentence of subsection 2 of section 582 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

Any person aggrieved by the decision upon such petition may, within 30 days after notice thereof from the State Tax Assessor, ~~or after the petition shall be deemed to have been denied~~, appeal therefrom to the Superior Court in the county where the land ~~or any part of the land~~ is located.

Sec. 17. R. S., T. 36, § 582, sub-§ 4, amended. Subsection 4 of section 582 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

4. Persons aggrieved. A person aggrieved hereunder shall be any person with a legal interest in land subject to the determination, any municipality in which land subject to the determination lies, and the Attorney General of the State of Maine upon the written petition of 10 residents of the State of Maine if he shall see fit to intervene or appeal, ~~in which event the Attorney General shall be authorized to employ independent counsel to represent such petitioners if he deems it appropriate to do so.~~

Sec. 18. R. S., T. 36, § 583, amended. Section 583 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, is amended to read as follows:

§ 583. Appeal from assessor

1. Petition for reconsideration. Any person aggrieved by any determination by ~~a municipal~~ an assessor, ~~other than orders pursuant to section 576,~~ under this subchapter, may petition for a reconsideration of that determina-

tion within 30 days after being notified of that determination. If a petition for reconsideration is filed within said period, the ~~municipal~~ assessor shall reconsider the matter and, if petitioner has so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner at least 15 days' notice of the time and place thereof. For cause shown, the ~~municipal~~ assessor may extend the time and filing of such petition. The ~~municipal~~ assessor may amend or reaffirm his determination as he sees fit and may order a refund, in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid ~~which amounts shall be paid out of the municipal treasury, if there are funds available, and if not, payment shall be made in the following tax year.~~ If the assessor fails to give written notice of his decision within 90 days of the filing of a petition for reconsideration, the petition shall be deemed to have been denied, and the applicant may appeal as provided, unless the applicant shall in writing have consented to further delay.

2. **Appeal to Forestry Appeal Board.** Any person aggrieved by the decision of a municipal assessor upon such petition may, within 30 days after notice thereof from the municipal assessor, ~~or after the petition shall be deemed to have been denied,~~ appeal therefrom to the Forestry Appeal Board established by section 565 and the Forestry Appeal Board may amend or reaffirm such determinations as the board sees fit and may order a refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid; which amounts shall be paid out of the municipal treasury, if there are funds available, and if not, payment shall be made in the following tax year. ~~If the Forestry Appeal Board fails to give written notice of its decision within 90 days of the filing of such an appeal, the appeal shall be deemed to have been denied, and the applicant may appeal as provided, unless the applicant shall in writing have consented to further delay.~~ The application to the Forestry Appeal Board shall be filed with the Forest Commissioner, with a copy to the assessors of the municipality concerned, and shall include the name and address of the Forestry Appeal Board member selected by the applicant. Section 843-B shall apply to such proceedings.

3. **Appeal to Superior Court.** ~~Either party~~ The applicant may appeal from the decision of ~~said Forestry Appeal Board~~ the State Tax Assessor under subsection 1 or of the Forestry Appeal Board under subsection 2 to the Superior Court ~~under the conditions provided for in section 846~~ in the county where the land or any part of the land is located. The applicant shall, when such appeal is taken, file an affidavit stating his reasons for appeal and serve a copy thereof on the assessor, and in the hearing of the appeal, shall be confined to the reasons of appeal set forth in such affidavit. Jurisdiction is granted to hear and determine such appeals and to enter such order and decrees as the nature of the case may require. The decision upon all questions of fact shall be de novo and shall be final. An appeal may be taken to the law court as in all other actions. Decisions shall be certified forthwith by the clerk of courts to the assessor.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

FISCAL NOTE

These amendments do not affect the revenue aspects of the Maine Tree Growth Tax Law, except as they may render more efficient its administration.

STATEMENT OF FACT

This bill provides technical amendments to the Maine Tree Growth Tax Law to resolve various ambiguities, omissions and needs for clarification. This bill incorporates amendments proposed by the State Tax Assessor and various other persons. In many instances, it places in the statute the interpretations which the State Taxation Department has been applying by means of regulations or operational guidelines.

It is important that this legislation be enacted promptly as an emergency measure so that it will take effect prior to April 1, 1973, the commencement of the first property tax year to which the Act is applicable.