

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1629

H. P. 1252

House of Representatives, March 26, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Evans of Freedom.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Amend the Farm and Open Space Land Law.

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

Sec. 1. R. S., T. 36, § 586, sub-§ 2, amended. Subsection 2 of section 586, of Title 36 of the Revised Statutes, as enacted by chapter 548, and as amended by section 9 of chapter 616 of the public laws of 1971, is further amended to read as follows :

2. **Open space land.** "Open space land" means any area of land, including without limitation state wildlife and management areas, sanctuaries and preserves designated as such in Title 12, 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.

Sec. 2. R. S., T. 36, § 588, amended. The 3rd sentence of section 588 of Title 36 of the Revised Statutes, as enacted by chapter 548 of the public laws of 1971, is amended to read as follows :

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~~ or an owner of land in a municipality which does not have a planning board who has obtained approval of such classification from the municipal officers of said municipality, 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.

Sec. 3. R. S., T. 36, § 591, repealed and replaced. Section 591 of Title 36 of the Revised Statutes, as enacted by chapter 548 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 591. Withdrawal

If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor may withdraw the land from taxation under this subchapter. The owner of land subject to this subchapter may at any time request withdrawal of any parcel, or portion thereof, from taxation under this subchapter by certifying to the assessor that the land is no longer used primarily as farm land or open space land. 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 that power, withdrawal shall impose a penalty upon the owner which shall be the greater of:

1. 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 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

2. 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 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.

Such penalties shall be paid to the assessor as additional property taxes upon withdrawal.

Upon withdrawal, the lands shall be relieved of the requirements of this subchapter immediately and shall be returned to taxation under the Maine statutes relating to the taxation of real property, to be so taxed on the following April 1st.

Sec. 4. R. S., T. 36, §§ 591-A and 591-B, additional. Title 36 of the Revised Statutes is amended by adding 2 new sections, 591-A and 591-B, to read as follows:

§ 591-A. Sale of a portion of a parcel of farm land or open space land

Sale of a portion of a parcel of farm land or open space land subject to taxation under this subchapter shall not affect the taxation under this subchapter of the resulting parcels. 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 section 591 shall apply only to the owner of such parcel.

§ 591-B. Reclassification and withdrawal in unorganized territory

In the case of withdrawal of 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.

STATEMENT OF FACT

This bill provides amendments to the Farm and Open Space Land Law to resolve various problems in its administration. Aside from some self-explanatory technical amendments, the 2 more significant amendments are as follows: The 3rd sentence of section 588 is amended so that an owner of land in a municipality which has a planning board must obtain approval from that planning board or, in a municipality which does not have a planning board, from the municipal officers. In section 591, the withdrawal and recapture provision has been amended to incorporate the provision used in the Maine Tree Growth Tax Law so that the recapture mechanism will be the same in both of these current use statutes, thereby avoiding confusion in the administration of the law and avoiding the double bookkeeping aspect of the present provision.