

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1734

H. P. 1509

House of Representatives, April 29, 1977

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

EDWIN H. PERT, Clerk

Presented Mr. Churchill of Orland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Improve the Administration of the Maine Tree Growth Tax Law.

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

Sec. 1. 36 MRSA § 565, as reenacted by PL 1973, c. 645, § 1, is repealed.

Sec. 2. 36 MRSA § 576, first ¶, 2nd sentence, as enacted by PL 1971, c. 616, § 8, is repealed and the following enacted in its place:

The growth rate surveys shall be reduced by a discount factor determined by the Forest Land Valuation Advisory Council pursuant to section 584 to reflect the growth which can be extracted on a sustained basis.

Sec. 3. 36 MRSA § 576, 4th ¶, as amended by PL 1973, c. 308, § 4, is repealed and the following enacted in its place:

After the State Tax Assessor has made the foregoing determinations, he shall apply a capitalization rate, certified to him by the Forest Land Valuation Advisory Council pursuant to section 584, 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.

Sec. 4. 36 MRSA § 583, sub-§ 2, as last repealed and replaced by PL 1973, c. 645, § 2, is repealed and the following enacted in its place:

2. Appeal to Land Classification Appeals Board. Any person aggrieved by the decision of an assessor, the State Tax Assessor or chief assessors, upon such petition may, within 30 days after notice thereof from the assessor or after the petition shall be deemed to have been denied, appeal therefrom to

the Land Classification Appeals Board under chapter 101, subchapter III, Article 2.

Sec. 5. 36 MRSA § 583, sub-§ 3, first sentence, as last repealed and replaced by PL 1973, c. 645, § 3, is repealed and the following enacted in its place:

Any party may appeal from the decision of the Land Classification Appeals Board under subsection 2 to the Superior Court in the county where the land or any part of the land is located.

Sec. 6. 36 MRSA § 584, as last amended by PL 1975, c. 771, §§ 400 and 401, is repealed and the following enacted in its place:

§ 584. Advisory Council

There is established a Forest Land Valuation Advisory Council, hereinafter called the "Advisory Council," which shall consist of 5 members: The Commissioner of Conservation or his designee; the Commissioner of Finance and Administration or his designee; the Director of the State Planning Office or his designee, but such designee shall have extensive background, training and experience in economics; a person appointed by the Governor owning land classified under the Maine Tree Growth Tax Law; a person appointed by the Governor whose principal occupation is that of a municipal assessor and who is certified pursuant to section 311. The initial appointment of the municipal assessor shall be for a 2-year period. All subsequent appointments of municipal assessors and all appointments of landowners shall be for a 4-year period. The terms of a municipal assessor or a landowner shall not terminate because a member ceases to meet the qualifications necessary for appointment. The members of the Advisory Council who are appointed by the Governor shall be compensated for actual expenses incurred in performance of their duties by the Bureau of Taxation. All other members shall be compensated for their actual expenses by the agencies which they represent.

By February 1, 1978, and every 4th year thereafter, the Advisory Council shall determine the discount factor which is applied to the growth rates set by the State Tax Assessor pursuant to section 576. The discount factor shall be based on empirical evidence relating to current wood market conditions, current technological developments and other considerations in the extractability of wood from forest lands on a sustained yield basis.

By February 1st of each even-numbered year, the Advisory Council shall determine, and certify to the State Tax Assessor, the capitalization rate which is applied to the value of the annual net wood production pursuant to section 576. The capitalization rate shall be based upon the opportunity cost of owning forest land, including, but not limited to, the following factors: Risk, access to financial markets and relative nonproperty tax treatments.

The Advisory Council shall hold one or more public hearings, concerning its determination of the discount factor and the capitalization rate, in November of each year preceding the date of its determinations.

The Advisory Council shall be authorized to procure assistance in making its determinations from the University of Maine and such state agencies as it may arrange.

Sec. 7. 36 MRSA §§ 843-A and 843-B, as reenacted by PL 1973, c. 645, §§ 4 and 5, are repealed.

Sec. 8. 36 MRSA § 1118, sub-§§ 2, 3 and 4, as enacted by PL 1975, c. 726, § 2, are repealed and the following enacted in their place:

2. Appeal to Land Classification Appeals Board. Any person aggrieved by the decision of an assessor, the State Tax Assessor or chief assessor, upon such petition may, within 30 days after notice thereof from such assessor or after the petition shall be deemed to have been denied, appeal therefrom to the Land Classification Appeals Board under chapter 101, subchapter III, Article 2.

3. Appeal to Superior Court. Any party may appeal from the decision of the Land Classification Appeals Board under subsection 2 to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B in the county where any part of the land is located. Decisions shall be certified forthwith by the clerk of courts to the assessor.

Sec. 9. 36 MRSA c. 101, sub-c. III, 2nd line, as enacted by PL 1969, c. 502, § 3, is repealed and the following enacted in its place:

PROPERTY TAX APPEALS

ARTICLE 1. MUNICIPAL VALUATION APPEALS BOARD

Sec. 10. 36 MRSA c. 101, sub-c III, Art. 2, is enacted to read:

ARTICLE 2. LAND CLASSIFICATION APPEALS BOARD

§ 297. Purpose; composition

The Land Classification Appeals Board is established to hear appeals from decisions of municipal tax assessors, chief assessors and the State Tax Assessor acting as assessor of the unorganized territory relating to the Maine Tree Growth Tax Law or the Farm Productivity and Open Space Land Law. The board shall be composed of 3 voting members: The Commissioner of Conservation or his designee; the Commissioner of Agriculture or his designee; and the person who, pursuant to section 584, is currently serving on the Forest Land Valuation Advisory Council as the landowner member. The Commissioner of Finance and Administration or his designee shall serve in an advisory capacity as a nonvoting member and as chairman of the board. The landowner member shall be compensated by the Bureau of Taxation at \$25 per day plus actual expenses. All other members shall be compensated by their agency they represent for actual expenses incurred in the performance of their duties under this section.

§ 298. Hearing

On receipt of an application for review by the Land Classification Appeals Board, the chairman shall designate a time and place for hearing and make such other arrangements for such hearing as may be necessary. The board

may summons witnesses, administer oaths, order the production of books, records, papers, instruments and any additional evidence it deems necessary in order to make a decision. The board may affirm, reject or amend determinations of assessors, chief assessors and the State Tax Assessor, made pursuant to the Maine Tree Growth Tax Law or the Farm Productivity and Open Space Law. The board may order a refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. If the board fails to give written notice of the 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 further as provided, unless the applicant shall have consented in writing to further delay.

Sec. 11. Appropriation. There is appropriated from the General Fund to the Department of Finance and Administration, Bureau of Taxation, the sum of \$5,000 for the year 1977-78 to carry out the purposes of section 6. The breakdown shall be as follows:

1977-78

FINANCE AND ADMINISTRATION,

DEPARTMENT OF

Bureau of Taxation

All Other

\$5,000

STATEMENT OF FACT

This bill has 2 objectives. First, the bill creates the Land Classification Appeals Board which is designed to efficiently resolve and process appeals under the Maine Tree Growth Tax Law and the Farm Productivity and Open Space Law.

Second, the bill restructures the membership and responsibilities of the Forest Land Valuation Advisory Council in order to improve the procedures used in determining valuations of land classified under the Maine Tree Growth Tax Law.

The Forest Land Valuation Advisory Council is given the responsibility of periodically setting the discount factor for extractability and the capitalization rate to be used in forest land valuation.