

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1423

H. P. 1153

House of Representatives, March 22, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Roope of Presque Isle.

Cosponsors: Mr. Torrey of Poland, Mr. Hunter of Benton and Mr. Sherburne of Dexter.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Reduce the Inheritance Tax Liability on Family-owned Farms
Maintained in Farm Production and Inherited by the Immediate Family.**

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

Sec. 1. 36 MRSA § 3471 is enacted to read:

§ 3471. Family-owned farms

In lieu of the taxes provided in sections 3462 to 3464, family-owned farms eligible under chapter 554 shall be taxed in accordance with the provisions of chapter 554.

Sec. 2. 36 MRSA c. 554 is enacted to read:

CHAPTER 554

INHERITANCE TAX FOR CERTAIN FAMILY-OWNED FARMS

§ 3491. Short title

This chapter shall be known and may be cited as the Family-owned Farms Inheritance Tax Law.

§ 3492. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Farm.** "Farm" shall mean any tract or tracts of land, including woodland and wasteland of at least 10 contiguous acres on which farming or agriculture activities have produced a gross income per year in one of the 2 or 3 of the 5 calendar years preceding acquisition of the land by a qualified heir of at least:

A. For 10 acres, \$1,000; and

B. For each acre over 10, with the total income required not to exceed \$2,000, \$100 per acre.

Gross income, as used in this section, includes the value of commodities produced for consumption by the farm household. Any applicant for inheritance tax under this chapter bears the burden of proof as to his qualification.

2. **Immediate family.** "Immediate family" shall mean husband, wife, brother, sister, son, daughter, mother or father of the decedent. A legally adopted child of the decedent shall be treated as a child of the individual by blood.

3. **Qualified heir.** "Qualified heir" shall mean a member or members of the decedent's immediate family who acquired the property:

A. By will, by laws regulating intestate succession or by allowance of a judge of probate;

B. By deed, grant, sale or gift except in case of a bona fide purchase for full consideration in money or money's worth, made in contemplation of the death of the grantor or donor, or made or intended to take effect in possession or enjoyment after the death of the grantor or donor to any person in trust or otherwise;

C. By survivorship in any form of joint ownership in which the decedent joint owner contributed during his lifetime any part of the property held in the joint ownership or of the purchase price thereof, excepting transfers by survivorship described in paragraph D; or

D. By survivorship in any form of joint ownership held in the names of husband and wife, whenever created, the value of decedent's interest in the joint ownership to be determined for the purpose of chapters 551 to 573, as provided by section 3632.

4. **Value.** "Value" shall mean market value of the farm real estate, land and buildings as determined by an appraiser, engaged or hired by the executor or executors of the estate.

§ 3493. Eligibility

Farms eligible for inheritance tax under this chapter must meet the following conditions.

1. **Location.** The farm must be located within the State.
2. **Qualified heir.** The farm must pass to a qualified heir.

§ 3494. Tax

All eligible farm property shall be subject to a tax upon the value thereof, in excess of the exemption hereinafter provided: Of 5% of the value in excess of the exemption as does not exceed \$50,000; of 6% of the value as exceeds the \$50,000 and does not exceed \$100,000; and of 8% of the value that exceeds \$100,000. The total value exempt from taxation to or for the use of all qualified heirs shall be \$250,000.

§ 3495. Recapture

If, during a period of 7 years from the time the qualified heir has acquired the property, the property does not continue to qualify as a farm as defined in section 3492, then the inheritance tax shall be recalculated in accordance with chapter 553 at the current market value at the time the property ceases to qualify as a farm and the difference between the tax actually paid in accordance with this chapter and the tax as calculated in accordance with chapter 553 shall become due and immediately payable. Property taxable under this recapture section shall be subject to a lien as provided in section 3404.

STATEMENT OF FACT

Due to the significant increase in real estate values, many family members who inherit family-owned farms and desire to continue farming are forced to sell all or part of the farm in order to pay inheritance taxes. Family-owned farms are quickly disappearing as a way of life.

The purpose of this bill is to reduce the amount of inheritance tax on family-owned farms which pass to members of the immediate family of the deceased. The bill restricts eligibility by the heirs as commercial farms. The first \$250,000 of the farm's market value would be exempt from inheritance tax; the balance would be taxed on a sliding scale from 5% to 8%.