

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)

FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 955

H. P. 801

House of Representatives, February 20, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Hall of Sangerville.

Cosponsors: Representative Twitchell of Norway, Representative Carl B. Smith of Island Falls and Representative Masterman of Milo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Maine Tree Growth Tax Law.

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

Sec. 1. 36 MRSA § 573, sub-§ 3, as amended by PL 1973, c. 308, § 2, is repealed and the following enacted in its place:

3. **Forest land.** "Forest land" means land used primarily for growth of trees for commercial use, but does not include ledge, marsh, open swamp, bog, water and similar areas, which are unsuitable for growing a forest product even though those areas may exist within forest lands. Land shall be included upon a determination by the assessor, as follows:

A. The landowner has derived a gross income from his lands exceeding \$10,000 in any or all of the previous 5 calendar years;

B. The land is certified to be a "tree farm" under the American Tree Farm System, it has been inspected by a registered forester within the past 5 years and the landowner is following the recommendations of the forester who inspected the land; or

C. A written 10-year forest management plan is signed and submitted by the landowner which meets the following conditions:

- (1) The plan provides for continued forest crop production of lands classified under this subchapter for the next succeeding 10 years;
- (2) The plan includes stand descriptions of forest type, stocking, basal area or volume, size class, age, maturity, previous cuttings and degree of regeneration; and
- (3) The plan states the short and long term management objectives of the landowner and recommendations on how to meet the objectives. Mention shall be made of specific treatments and practices to be carried out including access, plantings, thinnings, harvest cuttings and disease prevention. Schedules for these treatments and practices shall be noted. The 10-year forest management plan shall be filed with the assessor in such manner and form as is prescribed by the State Tax Assessor.

Sec. 2. 36 MRSA § 574, as amended by PL 1973, c. 308, § 3, is further amended to read:

§ 574. Applicability

~~This subchapter shall have mandatory application to any parcel which contains more than 500 acres of forest land~~ An owner of a parcel 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. 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. 3. 36 MRSA § 576, first ¶, as last amended by PL 1977, c. 549, § 2, is further amended to read:

The State Tax Assessor shall determine the average annual net wood production rate for each forest type described in section 573, subsections 5 to 7, in each county or region to be used in determining valuations applicable to forest land under this subchapter, on the basis of the surveys of average annual growth rates applicable in the State made from time to time by the United States Forest Service or by the Maine Forestry Bureau. ~~The growth rate surveys shall be reduced by a percentage discount factor determined by the State Tax Assessor pursuant to section 576-B to reflect the growth which can be extracted on a sustained basis~~ The rates shall be determined after passage of this subchapter, and when determined shall remain in effect without change for each county through the property tax year ending March 31, 1975. In 1974 and in every 10th year thereafter, the State Tax Assessor shall review and set ~~such~~ the rates for the followig 10-year period in the same manner.

Sec. 4. 36 MRSA § 576, 2nd ¶, as enacted by PL 1971, c. 616, § 8, is amended to read:

The State Tax Assessor shall determine the average stumpage value for each forest type described in section 573, subsections 5 to 7, applicable in each county,

or in such alternative forest economic regions as he may designate, after passage of this subchapter and in each ~~even-numbered~~ year thereafter, taking into consideration the prices upon sales of sound standing timber of that forest type in that area during the previous ~~2~~ calendar years year, and such other considerations as he deems appropriate.

Sec. 5. 36 MRSA § 576, 6th ¶, as amended by PL 1977, c. 694, § 678, is further amended to read:

The State Tax Assessor shall hold one or more public hearings, upon the foregoing matter to be determined, shall provide for a transcript thereof, and shall issue a rule or rules stating said the determinations on or before October 1, 1978 and on or before October 1st ~~biennially~~ each year thereafter.

Sec. 6. 36 MRSA § 576-B, first ¶, as last amended by PL 1977, c. 694, § 681, is repealed as follows:

~~By February 1, 1978 and every 4th year thereafter, the State Tax Assessor shall determine and prescribe by rule the percentage factor by which the growth rates set by him pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis. In determining the percentage factor, the State Tax Assessor shall rely on evidence of current wood market conditions, current technological developments and other considerations relating to the extractability of wood from forest lands on a sustained yield basis~~

Sec. 7. 36 MRSA § 576-B, 3rd ¶, as amended by PL 1977, c. 694, § 684, is further amended to read:

The State Tax Assessor shall hold one or more public hearings, concerning his determination of the ~~discount factor and the~~ capitalization rate in November of each year preceding the date of his determinations. A transcript shall be made of the proceedings.

Sec. 8. 36 MRSA § 576-B, 6th and 7th ¶¶, as enacted by PL 1977, c. 590, are repealed as follows:

~~The discount factor and capitalization rate determined by February 1, 1978, shall be utilized in redetermining the 100% valuation per acre for each forest type for each county for tax year 1978. All average annual gross wood production rates and average stumpage values previously determined for tax years 1977 and 1978 shall also be used to redetermine the 100% valuation per acre for each forest type for each county for tax years 1978~~

~~The 100% valuation per acre for each forest type for each county for tax year 1978 shall be deposited in the office of the Secretary of State by March 1, 1978, and shall be transmitted to the municipal assessors of each municipality on or before April 1, 1978~~

Sec. 9. 36 MRSA § 578, sub-§ 1, first ¶, as repealed and replaced by PL 1977, c. 282, is amended to read:

The municipal assessors or chief assessor of a primary assessing area shall adjust the State Tax Assessor's 100% valuation per acre for each forest type of their county or region by whatever ratio, or percentage of current just value, is then being applied to other property within the municipality to obtain the assessed values. Forest land in the organized areas, subject to taxation under this subchapter, shall be taxed at the property tax rate applicable to other property in the municipality, which rate shall be applied to the assessed values so determined. For any tax year, **beginning on or after January 1, 1981**, in which a ~~municipality has a situation where the municipality's~~ aggregate tax assessed on lands classified under this subchapter is less than ~~90%~~ of the aggregate tax that ~~could have been assessed, but for this subchapter,~~ on the same lands **adjusted by the municipal ratio in 1972**, the municipality shall have a valid claim against the State to recover **100%** of the taxes lost ~~to the extent that such loss exceeds a 10% loss from 1972, upon proof of the facts in form satisfactory to the State Tax Assessor, with adjustments for any state school subsidies that may be affected by changes in municipal valuations caused by the rise of values that could have been assessed but for this subchapter.~~ In any year when the state fails to reimburse municipalities for 100% of the taxes lost under this section, each property owner with land classified under this subchapter shall pay in the form of additional taxes to the municipalities concerned a pro rata share of the difference between taxes lost and reimbursement received. The additional tax shall be assessed following the supplemental assessment procedure in section 713.

Sec. 10. 36 MRSA § 578, sub-§ 1, 3rd, 4th & 5th ¶¶, as enacted by PL 1977, c. 720, § 3, are repealed.

Sec. 11. 36 MRSA § 581, as last amended by PL 1979, c. 445, §§ 1 and 2, is further amended by adding at the end a new paragraph to read:

Notwithstanding anything in this section, an owner of forest land whose land is classified under this subchapter on the effective date of this paragraph, may, for one year after the effective date of this paragraph, withdraw his land by paying an amount equal to the taxes and interest which would have been assessed for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified preceding that withdrawal had that forest land been assessed in each of those years at its fair market value on the date of withdrawal, less all taxes paid on that forest land over the preceding 5 years, or lesser number of years, as applicable. Thereafter, withdrawal shall be according to this section.

STATEMENT OF FACT

This bill establishes eligibility criteria, removes the mandatory application for parcels over 500 acres, allows regionalization of values, requires annual adjustments to stumpage values, requires annual adjustments to stumpage values, eliminates the discount factor, assures that no municipality realizes a tax loss and allows withdrawal for one year with payment of back taxes.

Under this bill, land would be eligible for tree growth if it either generates an income of \$10,000 over a 5-year period, is part of the tree farm program or is subject to an approved 10-year forest management plan. The elimination of the discount factor is proposed due to current wood market conditions, current technology and duplication with stumpage values and the capitalization rate.

Reimbursements would be made on 100% of the taxes lost after consideration of benefits derived under the School Finance Act. If reimbursements fail to equal 100% of the taxes lost, the difference would be financed by the beneficiaries of the Tree Growth Tax Law and not those property taxpayers presently assessed at highest and best use. This approach is currently employed in Vermont under that state's current use valuation law.