

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1328

S. P. 472

In Senate, March 17, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Teague of Somerset.

STATE OF MAINE

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

AN ACT to Make Changes in the Tree Growth Tax Law.

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

**Sec. 1.** 12 MRSA § 8403, sub-§ 2, as enacted by PL 1979, c. 545, § 3, is amended to read:

**2. Forest land.** "Forest land" means land in contiguous parcels which ~~are~~ were subject to mandatory taxation pursuant to Title 36, chapter 105, subchapter II-A, as of April 1, 1979.

**Sec. 2.** 12 MRSA § 8405, sub-§ 3, first sentence, as repealed and replaced by PL 1979, c. 737, § 4, is amended to read:

Persons owning parcels of forest land, including persons claiming timber and grass rights in public reserved lands, which ~~are~~ were classified as forest land pursuant to Title 36, chapter 105, subchapter II-A, as of April 1, 1979, of more than 500 acres within the Spruce Fir Forest Protection District shall be subject to the pre-project and post-project excise taxes established under section 8406 on the privilege of owning and operating such parcels of forest land, except as provided in this subchapter.

**Sec. 3.** 36 MRSA § 573, sub-§ 3, as amended by PL 1973, c. 308, § 2, is repealed and the following enacted in its place: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 shall 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 presentation by the landowner of evidence that the land is being used primarily for growth of trees for commercial use, as follows:

- A. A sworn statement from the landowner establishing that the landowner is engaged in the business of selling or processing forest products;
- B. A sworn statement from a registered professional forester that the land is being managed primarily for growth of trees for commercial use; or
- C. A written forest management plan for the land, accompanied by a sworn statement from the landowner that he is following the plan.

Land which would otherwise be included within the definition shall not be excluded because of multiple use for public or private recreation or because it is under contract with a state or federal agency restricting its use for timber production. Commercial use, as used in this subchapter, includes an owner's use of wood harvested from the owner's land.

Sec. 4. 36 MRSA § 574, as amended by PL 1973, c. 308, § 3, is repealed and the following enacted in its place:

**§ 574. Applicability**

An owner of a parcel containing forest land may apply at his election by filing with the assessor the schedule provided for in section 579; except that this subchapter does not apply to any parcel containing less than 10 acres of forest land. The election to apply requires the unanimous consent of all owners of an interest in a parcel, except for the State, which is not subject to taxation.

This subchapter does not apply to any land within the coastal shoreland area. For the purposes of this subchapter, "coastal shoreland area" means that land within 250 feet of the normal high water mark of any tidal water. Tidal water is that within the rise and fall of the tide, except water above any fishway or dam where the fishway or dam is the dividing line between tidewater and freshwater. Land mandatorily excluded from classification under this subchapter by this section is not subject to any penalty upon exclusion.

Sec. 5. 36 MRSA § 576, first ¶, first sentence, as amended by PL 1973, c. 460, § 18, 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.

Sec. 6. 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. 7. 36 MRSA § 576, 5th ¶**, 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 matters to be determined, shall provide for a transcript thereof, and shall issue a rule or rules stating ~~said those~~ determinations on or before October 1, 1978 and on or before October 1st ~~biennially~~ each year thereafter.

**Sec. 8. 36 MRSA § 576-B, first ¶**, as amended by PL 1977, c. 694, § 681, is further amended by adding before the first sentence a new sentence to read:

**Until February 1, 1983, the percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis shall be 10%.**

**Sec. 9. 36 MRSA § 576-B, first ¶, first sentence**, as amended by PL 1977, c. 694, § 680, is further amended to read:

By February 1, ~~1978~~ 1983 and every ~~4th~~ odd-numbered 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.

**Sec. 10. 36 MRSA § 578, sub-§ 1**, as amended by PL 1977, c. 720, § 3, is repealed and the following enacted in its place:

**1. Organized areas.** 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's aggregate tax assessed on lands classified under this subchapter is less than the aggregate tax that could have been assessed, but for this subchapter, on the same lands if the lands were assessed according to the undeveloped acreage used in the state valuation then in effect, adjusted by the municipal ratio, the municipality shall have a valid claim against the State to recover the taxes lost, with adjustments for any state school subsidies that may be affected by changes in municipal valuations caused by the use of undeveloped

acreage valuation, to the extent of 35% of such loss upon proof of the facts in form satisfactory to the State Tax Assessor.

Sec. 11. 36 MRSA § 578, sub-§ 2, as amended by PL 1973, c. 308, § 8, is repealed and the following enacted in its place:

2. **Unorganized territory.** The State Tax Assessor shall use 100% valuation per acre for each type for each county or region to obtain the assessed value for the unorganized territory.

Sec. 12. 36 MRSA § 579-A is enacted to read:

**§ 579-A. Posting prohibited**

No landowner may deny access to any land subject to taxation under this subchapter for the purpose of hunting, fishing or trapping, and the posting of that land to prohibit that activity is a civil violation for which a forfeiture of not more than \$50 shall be adjudged for the first violation and, for a 2nd or subsequent violation, a forfeiture of not more than \$100 may be adjudged.

**STATEMENT OF FACT**

This bill requires proof of intent to use tree growth land for commercial timber purposes and defines commercial use to include an owner's use of timber for his own purposes in connection with the management plan requirement. It permits regional as well as county establishment of wood production rates. Stumpage values are to be determined annually and the discount factor is set at 10% to February 1, 1983, at which time it is set by the State Tax Assessor biennially, along with the capitalization rate. Municipal reimbursement for the tax shifts created is set at 35%.

This bill also repeals that part of the Tree Growth Tax Law that mandates classification of parcels of 500 acres or more and excludes shoreland zoning from application of the law. It also prohibits any landowner from denying access to lands subject to this tax for the purpose of hunting, fishing or trapping.