

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1554

7 S.P. 531

In Senate, May 3, 1983

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

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator McBreairty of Aroostook.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Value Forest Land on the
18 Basis of Current Use.
19

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

22 Sec. 1. 36 MRSA c. 105, sub-c. II-A, as amended,
23 is repealed.

24 Sec. 2. 36 MRSA c. 105, sub-c. XI is enacted to
25 read:

26 SUBCHAPTER XI

27 FOREST LAND

28 §1121. Title

29 This subchapter may be cited as the "Maine Forest
30 Land Tax Law."

1 §1122. Purpose

2 It is declared to be the public policy of this
3 State that the public interest would be best served
4 by encouraging forest landowners to retain and
5 improve their holdings of forest lands upon the tax
6 rolls of the State and to promote better forest man-
7 agement by appropriate tax measures in order to pro-
8 tect this unique economic and recreational resource.

9 This subchapter implements the 1970 amendment of
10 The Constitution of Maine, Article IV, Section 8,
11 providing for valuation of timberland and woodland
12 according to their current use by permitting those
13 lands to be valued without regard to other potential
14 uses.

15 §1123. Definitions

16 As used in this subchapter, unless the context
17 requires otherwise, the following words have the fol-
18 lowing meanings.

19 1. Current use value. "Current use value" means
20 the market value of forest land which is sold for
21 forest land purposes.

22 2. Forest land. "Forest land" means land used
23 primarily for growth of trees to be harvested for
24 commercial use, but does not include ledge, marsh,
25 open swamp, bog, water and similar areas, which are
26 unsuitable for growing a forest product or for har-
27 vesting for commercial use even though these areas
28 may exist within forest lands.

29 Land which would otherwise be included within this
30 definition shall not be excluded because of:

31 A. Multiple use for public recreation;

32 B. Statutory or governmental restrictions which
33 prevent commercial harvesting of trees or require
34 a primary use of the land other than commercial
35 harvesting;

36 C. Deed restrictions, restrictive covenants or
37 organizational charters which prevent commercial

1 harvesting of trees or require a primary use of
2 land other than commercial harvesting and which
3 were effective prior to January 1, 1982;

4 D. If the parcel is less than 100 acres, the
5 fact that the sole use of the land is harvesting
6 trees for personal use; or

7 E. Past or present multiple use for mineral
8 exploration.

9 §1124. Applicability

10 An owner of a parcel containing forest land may
11 apply at his election by filing with the assessor the
12 schedule provided for in section 1128, except that
13 this subchapter shall not apply to any parcel con-
14 taining less than 10 acres of forest land. For pur-
15 poses of this subchapter, a parcel is deemed to
16 include a unit of real estate, notwithstanding that
17 it is divided by a road, way, railroad or pipeline,
18 or by a municipal or county line. The election to
19 apply shall require the unanimous consent of all
20 owners of an interest in a parcel, except for the
21 State which is not subject to taxation under this
22 subchapter.

23 A parcel of land shall be included upon presenta-
24 tion by the landowner of evidence that the land is
25 being used as follows:

26 1. Business. A sworn statement from the land-
27 owner establishing that the landowner is engaged in
28 the business of selling or processing forest products
29 and that the land is used in that business;

30 2. Inspection by registered professional for-
31 ester. A sworn statement from the landowner that the
32 land has been inspected by a registered professional
33 forester within the past 5 years and that the land-
34 owner is following the recommendations of that for-
35 ester;

36 3. Written forest management plan for commercial
37 use. A written forest management plan for commercial
38 use of the land, accompanied by a sworn statement
39 from the landowner that he is following that plan; or

1 4. Land of less than 100 acres. The land is
2 less than 100 acres and the landowner is managing the
3 land according to accepted forestry practices
4 designed to produce trees having commercial value or
5 trees to be harvested for personal use.

6 §1125. Powers and duties

7 The State Tax Assessor shall annually determine
8 the current use value of forest land in each county
9 or region to be used in determining the valuations
10 applicable to forest land under this subchapter. In
11 making this determination, the State Tax Assessor
12 shall take into consideration the average sales
13 prices paid for forest land in the county or region
14 during the previous 2 years. If the number of sales
15 available during that time period are inadequate,
16 older sales may be used. The State Tax Assessor
17 shall exclude sales where it appears that the land
18 will be used for other than forest land purposes.

19 The State Tax Assessor shall hold one or more
20 public hearings on these determinations and shall
21 issue a rule or rules stating the determination on or
22 before October 1, 1983, and on or before October 1st
23 of each year thereafter.

24 §1126. Valuation of areas other than forest land

25 Areas other than forest land within any parcel of
26 forest land shall be valued on the basis of fair
27 market value.

28 §1127. Assessment of tax

29 1. Organized areas. The municipal assessors or
30 chief assessor of a primary assessing area shall ad-
31 just the current use value per acre for each parcel
32 of forest land of their area by whatever ratio or
33 percentage of current just value is then being
34 applied to other property within the municipality to
35 obtain the assessed values. Forest land in the
36 organized areas, subject to taxation under this sub-
37 chapter, shall be taxed at the property tax rate
38 applicable to other property in the municipality,
39 which rate shall be applied to the assessed values so
40 determined.

1 2. Unorganized territory. The State Tax Assessor shall adjust the current use value by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. Forest land in the unorganized territory subject to taxation under this subchapter shall be taxed at the same property tax rate as is applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined. Upon collection by the State Tax Assessor, these taxes shall be deposited in the Unorganized Territory Education and Services Fund in accordance with section 1605.

15 3. Divided ownership. In cases of divided ownership of land and the timber and grass rights thereon, the assessor shall apportion 10% of the valuation to the land and 90% of the valuation to the timber and grass rights.

20 §1128. Schedule, investigation

21 The owner or owners of forest land subject to valuation under this subchapter shall submit a signed schedule in duplicate, on or before April 1st of the year in which that land first becomes subject to valuation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor, identifying the land to be valued under this subchapter, listing the number of acres and representing that the land is used primarily for the growth of trees to be harvested for commercial use. Those schedules may be required at such other times as the assessor may designate upon 90 days' written notice.

33 The assessor shall determine whether the land is subject to valuation and taxation under this subchapter.

36 The assessor or the assessor's duly authorized representative may enter and examine the forest lands under this subchapter and may examine into any information submitted by the owner or owners.

40 Upon notice in writing by certified mail, return receipt requested, or by such other method as pro-

1 vides actual notice, any owner or owners shall appear
2 before the assessor, at such reasonable time and
3 place as the assessor may designate and answer such
4 questions or interrogatories as the assessor may deem
5 necessary to obtain material information about those
6 lands.

7 If the owner or owners of any parcel of forest
8 land subject to valuation under this subchapter fails
9 to submit the schedules or to provide information
10 after notice duly received as provided under this
11 section, the owner or owners shall be deemed to have
12 waived all rights of appeal pursuant to section 1133
13 for that property tax year, except for the determina-
14 tion that the land is subject to valuation under this
15 subchapter.

16 It shall be the obligation of the owner or owners
17 to report to the assessor any change of use or change
18 of forest type of land subject to taxation under this
19 subchapter.

20 If the owner or owners fail to report to the
21 assessor a change of use, the assessor may collect
22 such taxes as should have been paid, shall collect
23 the penalty provided in section 1129 and shall assess
24 the additional penalty of 25% of the foregoing pen-
25 alty amount. The assessor may waive the additional
26 penalty for cause.

27 The acts of owners specified in this section may
28 be taken by an authorized agent of an owner.

29 §1129. Withdrawal

30 If the assessor determines that land subject to
31 this subchapter no longer meets the requirements of
32 this subchapter, the assessor may withdraw the parcel
33 from taxation under this subchapter. The owner of
34 land subject to this subchapter may at any time
35 request withdrawal of any parcel, or portion thereof,
36 from taxation under this subchapter by certifying to
37 the assessor that the land is no longer to be classi-
38 fied under this subchapter.

39 In the case of withdrawal of a portion of a
40 parcel, the owner, as a condition of withdrawal,

1 shall file with the assessor a plan showing the area
2 withdrawn and the area remaining under this subchap-
3 ter. In the case of withdrawal of a portion of a
4 parcel, the resulting portions shall be treated
5 thereafter as separate parcels under section 708.

6 In either case, and except when the change is
7 occasioned by a transfer to the State or other entity
8 holding the power of eminent domain, resulting from
9 the exercise or threatened exercise of that power,
10 withdrawal shall impose a penalty upon the owner
11 equal to the tax that would have been imposed over
12 the 5 years preceding the withdrawal had the real
13 estate been assessed at its highest and best use,
14 less all taxes paid on the real estate over the pre-
15 ceding 5 years, and interest at the legal rate from
16 the date or dates on which those amounts would have
17 been payable.

18 These penalties shall be paid to the tax collec-
19 tor as additional taxes upon withdrawal.

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

25 No penalty may be assessed upon the withdrawal of
26 land from taxation under this subchapter if the owner
27 applies for and is accepted for classification as
28 farmland or open space land under subchapter II-B,
29 provided that in the event that a penalty is later
30 assessed under section 1112, the period of time that
31 the land was taxed as forest land under this subchap-
32 ter shall be included for the purposes of establish-
33 ing the amount of the penalty.

34 Any municipality which receives a penalty for the
35 withdrawal of land from taxation under this subchap-
36 ter shall report to the State Tax Assessor annually
37 the total amount received on the municipal valuation
38 return form described in section 383.

39 §1130. Sale of a portion of a parcel of forest land

1 Sale of a portion of a parcel of forest land sub-
2 ject to taxation under this subchapter shall not
3 affect the taxation under this subchapter of the
4 resulting parcels, unless they are less than 10 acres
5 in area. Each resulting parcel shall be taxed to the
6 owners under this subchapter until that parcel is
7 withdrawn from taxation under this subchapter, in
8 which case the penalties provided for in sections
9 1128 and 1129 shall apply only to the owner of that
10 parcel. If a parcel resulting from the sale is less
11 than 10 acres in area, that parcel shall be consid-
12 ered as withdrawn from taxation under this subchapter
13 as a result of that sale.

14 §1131. Reclassification and withdrawal in unorgan-
15 ized territory

16 In the case of withdrawal of forest land in the
17 unorganized territory, the State Tax Assessor shall
18 make such supplementary assessments or abatements as
19 may be necessary to carry out this subchapter.

20 §1132. Mineral lands

21 Notwithstanding section 1129, on withdrawal or
22 change of use of land containing naturally-occurring
23 metallic minerals, the penalty due with respect to
24 the portion of the just value attributable to those
25 minerals shall be the minimum penalty provided in the
26 Constitution of Maine, Article IX, Section 8.

27 1. Just value. The portion of just value
28 attributable to the naturally-occurring metallic min-
29 erals shall be the just value of the minerals accord-
30 ing to section 2864.

31 2. Additional penalty. The additional penalty
32 for failure to report a change of use under section
33 1128 may not apply to this penalty.

34 3. Interest. Interest shall be applied to this
35 penalty at a rate of 5% per year.

36 4. Supplemental assessments. When the penalty
37 provisions of this section apply to a change of use
38 or withdrawal, supplemental assessments under section
39 1128, or supplemental assessments under any other

1 section, of the tax that should have been paid may
2 not be made on the portion of the valuation of that
3 land that is attributable to naturally-occurring
4 metallic minerals.

5 5. Application. This section shall also apply
6 to changes in use occurring before the effective date
7 of this section.

8 6. Allocation of penalty. This penalty shall be
9 deposited in the Mining Impact Assistance Fund pro-
10 vided in section 2863.

11 §1133. Payment for tax pending review

12 Any person who seeks abatement of any assessment
13 under this subchapter or seeks review of any matter
14 arising under this subchapter shall pay on or before
15 the due date all taxes assessed on land subject to
16 valuation under this subchapter, notwithstanding the
17 pendency of a petition for reconsideration, abatement
18 or review.

19 §1134. Abatement

20 Assessments made under this subchapter and
21 denials of applications for valuation under this sub-
22 chapter are subject to the abatement procedures pro-
23 vided by section 841. Appeal from an abatement deci-
24 sion rendered under section 841 shall be to the Land
25 Classification Appeals Board.

26 §1135. Continuity

27 Land which was classified as forest land under
28 the Maine Tree Growth Tax Law shall continue to be
29 classified as forest land under this subchapter with-
30 out the requirement of reapplication. Any penalty
31 for withdrawal of land from classification after the
32 effective date of this subchapter shall be calculated
33 under this subchapter. For purposes of calculating
34 any penalty under this subchapter or under subchapter
35 X, the period of classification shall be deemed to
36 include any time during which the land was classified
37 under the Maine Tree Growth Tax Law.

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STATEMENT OF FACT

This bill repeals the Maine Tree Growth Tax Law and replaces it with the Maine Forest Land Tax Law which enables forest land to be taxed at its current use market value. Lands eligible for classification would be the same as those currently eligible for tree growth classification. The penalty for withdrawal would be the minimum constitutional penalty.

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