

# MAINE STATE LEGISLATURE

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L.D. 2319

(Filing No. H- 593 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
113TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1690, L.D. 2319,  
Bill, "AN ACT to Amend the Farm and Open Space Tax  
Law."

Amend the bill by striking out everything after  
the enacting clause and inserting in its place the  
following:

'Sec. 1. 36 MRSA §1102, sub-§4, as enacted by  
PL 1975, c. 726, §2, is amended to read:

4. Farmland. "Farmland" means any tract or  
tracts of land, including woodland and wasteland of at  
least ±0 5 contiguous acres on which farming or  
agricultural activities have produced a gross income  
of at least \$2,000 per year in one of the 2 or 3 of  
the 5 calendar years preceding the date of application  
for classification ~~of-at-least.~~

~~A--\$1,000-for-±0-acres,-and~~

~~B- \$100 per acre for each acre over ±0, with  
the-total-income-required-not-to-exceed-\$2,000.~~

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

1           Sec. 2.    36 MRSA §1102, sub-§5-A is enacted to  
2 read:

3           5-A. Horticultural land.    "Horticultural land"  
4 means land which is engaged in the production of  
5 vegetables, tree fruits, small fruits, flowers and  
6 woody or herbaceous plants.

7           Sec. 3.    36 MRSA §1103, as amended by PL 1977,  
8 c. 467, §2, is further amended to read:

9           §1103. Owner's application

10           An owner of farmland or open space land may apply  
11 for taxation under this subchapter for the calendar  
12 year 1978 1989, and for subsequent calendar years,  
13 at his election by filing with the assessor the  
14 schedule provided for in section 1109. The election  
15 to apply shall require the unanimous consent of all  
16 owners of an interest in that farmland or open space  
17 land.

18           Sec. 4.    36 MRSA §1105, as repealed and replaced  
19 by PL 1977, c. 467, §3, is repealed and the following  
20 enacted in its place:

21           §1105. Valuation of farmland and open space land

22           The municipal assessor, chief assessor or State  
23 Tax Assessor for the unorganized territory shall  
24 establish the 100% valuation per acre based on the  
25 current use value of farmland used for agricultural or  
26 horticultural purposes and open space land used for  
27 open space purposes. The values established shall be  
28 based on such considerations as farmland rentals,  
29 farmer-to-farmer sales, soil types and quality,  
30 commodity values, topography and other relevant  
31 considerations. These values shall not reflect  
32 development or market value purposes other than  
33 agricultural, horticultural or open space use. The  
34 values shall not reflect value attributable to road  
35 frontage or shore frontage. In developing these  
36 values, local assessors may be guided by the  
37 Department of Agriculture, Food and Rural Resources as  
38 provided in section 1119.

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1        The 100% valuations per acre for farm and open  
2 space woodland within a parcel classified under this  
3 subchapter shall be the 100% valuation per acre for  
4 each forest type established for each county pursuant  
5 to subchapter II-A. Areas other than woodland,  
6 agricultural land, horticultural land or open space  
7 located within any parcel of farmland or open space  
8 classified under this subchapter shall be valued on  
9 the basis of just value.

10        Sec. 5.    36 MRSA §1108, as amended by PL 1979,  
11 c. 666, §23, is further amended to read:

12        §1108. Assessment of tax

13        1. Organized areas.    The municipal assessors  
14 shall adjust the 100% valuations per acre for farmland  
15 for their jurisdiction by whatever ratio, or  
16 percentage of current just value, is then being  
17 applied to other property within the municipality to  
18 obtain the assessed values. For any tax year, the  
19 classified farmland value must reflect only the  
20 current use value for farm or open space purposes and  
21 shall not include any increment of value reflecting  
22 development pressure. Commencing April 1, 1978, land  
23 in the organized areas subject to taxation under this  
24 subchapter shall be taxed at the property tax rate  
25 applicable to other property in the municipality,  
26 which rate shall be applied to the assessed values so  
27 determined.

28        2. Unorganized territory.    The State Tax Assessor  
29 shall adjust the 100% valuations per acre for farmland  
30 for the unorganized territory by such ratio or  
31 percentage as is then being used to determine the  
32 state valuation applicable to other property in the  
33 unorganized territory to obtain the assessed values.  
34 For any tax year, the classified farmland value must  
35 reflect only the current use value for farm or open  
36 space purposes and shall not include any increment of  
37 value reflecting development pressure. Commencing  
38 April 1, 1978, land in the unorganized territory  
39 subject to taxation under this subchapter shall be  
40 taxed at the state property tax rate applicable to  
41 other property in the unorganized territory, which

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1 rate shall be applied to the assessed values so  
2 determined.

3 Sec. 6. 36 MRS §1109, sub-§1, as amended by PL  
4 1981, c. 698, §181, is further amended to read:

5 1. Schedule. The owner or owners of farmland  
6 subject to taxation under this subchapter shall submit  
7 a signed schedule in duplicate, on or before April 1st  
8 of the year in which the owner or owners wish to first  
9 subject such land to taxation under this subchapter,  
10 to the assessor upon a form to be prescribed by the  
11 State Tax Assessor identifying the land to be taxed  
12 hereunder, listing the number of acres of each  
13 farmland classification, showing the location of the  
14 land in each classification and representing that the  
15 land is farmland within the meaning of section 1102,  
16 subsection 4. In determining whether such land is  
17 farmland, there shall be taken into account, among  
18 other things, the acreage of such land, the portion  
19 thereof in actual use for farming or agricultural  
20 operations, the productivity of such land, the gross  
21 income derived therefrom, the nature and value of the  
22 equipment used in connection therewith and the extent  
23 to which the tracts comprising such land are  
24 contiguous. If the assessor finds that the land meets  
25 the requirements of section 1102, subsection 4, the  
26 assessor shall classify it as farmland, apply the  
27 appropriate 100% valuations per acre for farmland and  
28 it shall be subject to taxation under this subchapter.

29 The assessor shall record, in the municipal office of  
30 the town in which the farmland is located, the value  
31 of the farmland as established under this subchapter  
32 and the value at which the farmland would have been  
33 assessed had it not been classified under this  
34 subchapter.

35 Sec. 7. 36 MRS §1109, sub-§2, as amended by PL  
36 1977, c. 509, §26, is further amended to read:

37 2. Provisional classification. The owner of a  
38 parcel of land, including woodland and wasteland of at  
39 least ±0 5 contiguous acres on which farming or  
40 agricultural activities have not produced the gross  
41 income required in section 1102, subsection 4, per

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1 year for one of the 2 or 3 of the 5 preceding calendar  
2 years, may apply for a 2-year provisional  
3 classification as farmland by submitting a signed  
4 schedule in duplicate, on or before April 1st of the  
5 year for which provisional classification is  
6 requested, identifying the land to be taxed hereunder,  
7 listing the number of acres of each farmland  
8 classification, showing the location of the land in  
9 each classification and representing that the  
10 applicant intends to conduct farming or agricultural  
11 activities upon that parcel. Upon receipt of the  
12 schedule, the land shall be provisionally classified  
13 as farmland and subjected to taxation under this  
14 subchapter. If, at the end of the 2-year period, the  
15 land does not qualify as farmland under section 1102,  
16 subsection 4, the owner shall pay a penalty which  
17 shall be an amount equal to the taxes which would have  
18 been assessed had the property been assessed at its  
19 fair market value on the first day of April for the 2  
20 preceding tax years less the taxes paid on the  
21 property over the 2 preceding years and interest at  
22 the legal rate from the dates on which those amounts  
23 would have been payable.

24 **Sec. 8.** 36 MRSA §1109, sub-§4, as amended by PL  
25 1977, c. 509, §27, is further amended to read:

26 4. Investigation. The assessor shall notify the  
27 landowner of his determination as to the applicability  
28 of this subchapter by June 1st following receipt of a  
29 signed schedule meeting the requirements of this  
30 section. If such notification is not given, except  
31 for an application for provisional classification as  
32 farmland, the assessor shall be deemed to have denied  
33 taxation hereunder at that time unless the land was  
34 taxed under this subchapter in the preceding year, in  
35 which case the assessor shall be deemed to have  
36 permitted taxation hereunder. The assessor shall  
37 notify the landowner that the application has been  
38 accepted or denied. If the application is denied, the  
39 assessor shall state the reasons for the denial and  
40 provide the landowner an opportunity to amend the  
41 schedule to conform to the requirements of this  
42 chapter.

43 The assessor or the assessor's duly authorized  
44 representative may enter and examine the lands under

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1 this subchapter for tax purposes and may examine  
2 into any information submitted by the owner or owners.

3 Upon notice in writing by certified mail, return  
4 receipt requested, any owner or owners shall be  
5 required, within 60 days of the receipt of such  
6 notice, to respond to such written questions or  
7 interrogatories as the assessor may deem necessary to  
8 obtain material information about those lands.  
9 ~~Should~~ If the assessor ~~determine~~ determines that  
10 he cannot reasonably obtain the required material  
11 information regarding those lands through such written  
12 questions or interrogatories, the assessor may require  
13 any owner or owners, upon notice in writing by  
14 certified mail, return receipt requested, or by such  
15 other method as provides actual notice, to appear  
16 before the assessor at such reasonable time and place  
17 as the assessor may designate and answer such  
18 questions or interrogatories as the assessor may deem  
19 necessary to obtain material information about those  
20 lands.

21 **Sec. 9. 36 MRSA §1112**, as amended by PL 1983,  
22 c. 400, §§2 and 3, is repealed and the following  
23 enacted in its place:

24 §1112. Recapture penalty

25 Any change in use disqualifying land for  
26 classification under this subchapter shall cause a  
27 penalty to be assessed by the assessors of the  
28 municipality in which the land is located, or by the  
29 State Tax Assessor if the land is not within a  
30 municipality, in addition to the annual tax in the  
31 year of disqualification except when the change is  
32 occasioned by a transfer resulting from the exercise  
33 or the threatened exercise of the power of eminent  
34 domain.

35 For land classified under this subchapter for less  
36 than 5 full years, the penalty shall be equal to 40%  
37 of its assessed fair market value at the time the land  
38 is removed from the program. For land that has been  
39 classified under this subchapter for more than 5 full  
40 years but less than 10 full years, the penalty shall

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1 be full recapture of the taxes that would have been  
2 paid on the land for all the years it was in the  
3 program, less all taxes that were paid during those  
4 years and interest at the rate set by the town during  
5 those years on delinquent taxes. For land that has  
6 been classified under this subchapter for more than 10  
7 full years, the penalty shall be the recapture of the  
8 taxes that would have been paid on the land for the  
9 past 5 years if it had not been classified under this  
10 subchapter, less all taxes that were actually paid  
11 during those 5 years and interest at the rate set by  
12 the town during those 5 years on delinquent taxes.

13 No penalty may be assessed at the time of a change  
14 of use from one classification of land subject to  
15 taxation under this subchapter to another  
16 classification of land subject to taxation under this  
17 subchapter nor may any penalty be assessed upon the  
18 withdrawal of land from taxation under this subchapter  
19 if the owner applies for and is accepted for  
20 classification as timberland under subchapter II-A,  
21 provided that in the event a penalty is later assessed  
22 under subchapter II-A the period of time that the land  
23 was taxed as farmland or open space land under this  
24 subchapter shall be included for purposes of  
25 establishing the amount of the penalty.

26 If land is withdrawn from classification under  
27 this subchapter, any penalty assessed may be  
28 considered for abatement pursuant to the procedures  
29 incorporated in subchapter VIII.

30 Sec. 10. 36 MRSA §§1119, 1120 and 1121 are  
31 enacted to read:

32 §1119. Valuation guidelines

33 By January 1, 1989, the Department of Agriculture,  
34 Food and Rural Resources working with the Bureau of  
35 Taxation, representatives of municipal assessors and  
36 farmers shall prepare guidelines to assist local  
37 assessors in the valuation of farmland. The  
38 department shall also deliver these guidelines in  
39 training sessions for local assessors throughout the  
40 State. These guidelines shall include suggested  
41 values for cropland, orchard land, pastureland and  
42 horticultural land.



1     §1120. Program promotion

2             The Department of Agriculture, Food and Rural  
3 Resources shall undertake an informational program  
4 designed to educate Maine citizens as to the existence  
5 of the farm and open space tax laws, which shall  
6 include, but not be limited to, informing local farm  
7 organizations and associations of tax assessors about  
8 the law.

9             By January 1, 1989, the Department of Agriculture,  
10 Food and Rural Resources and the Bureau of Taxation  
11 shall produce written materials designed to inform  
12 municipal assessors, farmers and Maine citizens about  
13 the farm and open space tax program. These materials  
14 shall be in a form that is attractive, easily  
15 understandable and designed to interest the public in  
16 the program. The department and the bureau shall  
17 ensure that these written materials are made available  
18 and distributed as widely as possible throughout the  
19 State.

20     §1121. Program monitoring

21             By January 1, 1989, and every 2 years thereafter,  
22 the Department of Agriculture, Food and Rural  
23 Resources and the Bureau of Taxation shall review the  
24 level of participation in the farm and open space tax  
25 program, the taxes saved due to that participation,  
26 the fiscal impact, if any, on municipalities,  
27 including the impact of any penalties assessed under  
28 section 1112 and the effectiveness of the program in  
29 preserving farmland and open space. The department  
30 and the bureau shall report to the joint standing  
31 committee of the Legislature having jurisdiction over  
32 taxation within 6 months after completion of the  
33 review on the status of the program. The department  
34 and the bureau shall identify problems that prevent  
35 realization of the purposes of this subchapter and  
36 potential solutions to remedy those problems.

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FISCAL NOTE

2           The only fiscal impact of this legislation to the  
3 State in fiscal year 1988-89 is the cost to develop an  
4 informational and educational program explaining the  
5 farm and open space tax laws. This cost can be  
6 absorbed by the affected departments.'

7

STATEMENT OF FACT

8           Since 1973, Maine has had a program for "current  
9 use value" assessment as opposed to "fair market  
10 value" assessment of farm and open space land. Yet,  
11 less than 6% of the State's eligible land is enrolled.

12           The purpose of these revisions is to make the farm  
13 and open space tax laws more acceptable to the farmers  
14 of the State and clearer and simpler for municipal  
15 assessors to administer. The major thrust of these  
16 revisions is in 2 areas: Making the penalty clause  
17 more acceptable and functional and developing more  
18 consistent standards for the agricultural valuation of  
19 farmland.

20           The penalty for declassifying farmland enrolled in  
21 the program for less than 5 full years has been  
22 increased to 40% of fair market value. For land  
23 enrolled longer than 5 full years but less than 10  
24 full years, the penalty shall be full recapture of the  
25 unpaid back taxes plus interest. For land enrolled  
26 more than 10 full years, the penalty has been reduced  
27 to 5 years' recapture of unpaid back taxes plus  
28 interest. The provision for penalty waiver in  
29 hardship cases has been flagged.

30           Valuation of farmland for agricultural purposes is  
31 left to the local assessors but the factors that shall  
32 be considered, and shall not be considered, in  
33 assessing farmland are more clearly spelled out. The  
34 Department of Agriculture, Food and Rural Resources is  
35 charged to provide information and education to local  
36 assessors on farmland valuation.

