

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 907, L.D. 1222, Bill, "An Act to Amend the Maine Tree Growth Tax Law"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Maine Tree Growth Tax Law and the Farm and Open Space Tax Laws'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 36 MRSA §573, sub-§3, ¶C, as amended by PL 1981, c. 711, §3, is further amended to read:

C. Deed restrictions, restrictive covenants or organizational charters which that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and which that were effective prior to January 1, 1982; or

Sec. 2. 36 MRSA §573, sub-§3, ¶D, as amended by PL 1981, c. 711, §3, is repealed.

Sec. 3. 36 MRSA §574-B, sub-§1, as amended by PL 1989, c. 637, §4, is further amended to read:

1. Forest management and harvest plan. A forest management and harvest plan has been prepared for the parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory that a management plan has been prepared for the parcel. A landowner with a parcel taxed pursuant to this subchapter on September 30, 1989 has until April 1, 1999, to comply with this requirement and until the plan is prepared or April 1, 1999, whichever is earlier, will be subject to the applicability provisions under this section as it existed on April 1, 1982.

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2 A landowner with a parcel taxed pursuant to this subchapter for a  
3 property tax year beginning before April 1, 1994 when the parcel  
4 was less than 100 acres and the sole use of the land was  
5 harvesting of trees for personal use shall:

6 A. By April 1, 1995, file a sworn statement that a revised  
7 management plan has been prepared for the parcel of forest  
8 land;

10 B. Apply for classification under the open space laws  
11 pursuant to section 1106-A; or

12 C. Notwithstanding section 581, withdraw from tree growth  
13 classification pursuant to this paragraph for the 1994 tax  
14 year.

16 For withdrawal from tree growth classification under this  
17 paragraph, the entire parcel subject to that classification  
18 in 1993 must be withdrawn from classification for the 1994  
19 tax year. Persons electing to withdraw under this paragraph  
20 shall notify the assessor before April 1, 1994 and pay a  
21 penalty equal to the taxes that would have been assessed on  
22 the first day of April for the 5 tax years, or any lesser  
23 number of tax years starting with the year in which the  
24 property was first classified, preceding such withdrawal had  
25 such real estate been assessed in each of those years at its  
26 fair market value on the date of withdrawal less all taxes  
27 paid on that real estate over the preceding 5 years and  
28 interest at the legal rate from the date or dates on which  
29 those amounts would have been payable. If there is a change  
30 in use of the property before April 1, 1999, an additional  
31 penalty must be assessed equal to the difference between the  
32 back taxes paid under this paragraph and the amount that  
33 would have been assessed if the land had been withdrawn on  
34 April 1, 1994 under section 581 plus interest at the legal  
35 rate from April 1, 1994. The procedure for withdrawal  
36 provided in this paragraph is intended to be an alternative  
37 to the procedure in section 581;

40 **Sec. 4. 36 MRSA §578, sub-§1, as amended by PL 1989, c. 857,**  
41 **§76, is further amended by amending the 3rd paragraph to read:**

42  
43 **In tax years beginning on or after April 1, 1988, the State Tax**  
44 **Assessor shall determine annually the amount of acreage in each**  
45 **municipality that is classified and taxed in accordance with this**  
46 **subchapter. A municipality actually levying and collecting**  
47 **municipal property taxes and within whose boundaries this acreage**  
48 **lies is entitled to annual payments from money so appropriated by**  
49 **the Legislature provided it submits an annual return in**

2 accordance with section 383 and it achieves the appropriate  
3 minimum assessment ratio described in section 327. For the  
4 property tax year based on the status of property on April 1,  
5 1988, the per acre reimbursement amount increases from 15¢ to  
6 24¢. For property tax years based on the status of property on  
7 April 1, 1989, or thereafter, the per acre reimbursement is 90%  
8 of the per acre tax revenue lost as a result of this subchapter.  
9 For purposes of this section, the tax lost is the tax that would  
10 have been assessed, but for this subchapter, on the classified  
11 forest lands if they were assessed according to the undeveloped  
12 acreage valuations used in the state valuation then in effect, or  
13 according to the current local valuation on undeveloped acreage,  
14 whichever is less, minus the tax that was actually assessed on  
15 the same lands in accordance with this subchapter. A  
16 municipality that fails to achieve the minimum assessment ratio  
17 established in section 327 loses 10% of the reimbursement  
18 provided by this section for each one percentage point the  
19 minimum assessment ratio falls below the ratio established in  
20 section 327.

21 **Sec. 5. 36 MRSA §581, 5th ¶,** as amended by PL 1977, c. 509,  
22 §9, is further amended to read:

23 Such The penalties shall for withdrawal must be paid to the  
24 tax collector as additional property taxes upon withdrawal.  
25 Penalties may be assessed and collected as supplemental  
26 assessments in accordance with section 713-B.

27 **Sec. 6. 36 MRSA §713-B** is enacted to read:

28 **§713-B. Penalties assessed as supplemental assessments**

29 Penalties imposed under section 581 or 1112 may be assessed  
30 as supplemental assessments pursuant to section 713 regardless of  
31 the number of years applicable in determining the penalty.

32 **Sec. 7. 36 MRSA §1105,** as amended by PL 1989, c. 748, §2, is  
33 further amended to read:

34 **§1105. Valuation of farmland**

35 The municipal assessor, chief assessor or State Tax Assessor  
36 for the unorganized territory shall establish the 100% valuation  
37 per acre based on the current use value of farmland used for  
38 agricultural or horticultural purposes ~~and open-space-land-used~~  
39 ~~for open-space-purposes.~~ The values established must be based on  
40 such considerations as farmland rentals, farmer-to-farmer sales,  
41 soil types and quality, commodity values, topography, ~~sales-of~~  
42 ~~land-subject-to-permanent-conservation-restrictions,~~ ~~sales-of~~  
43 ~~land-subject-to-enforceable-deed-restrictions,~~ ~~enhancement-to~~

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2 unclassified appurtenant land areas under same ownership, before  
and after appraisals of permanently restricted land in the region  
4 and other relevant considerations. These values may not reflect  
development or market value purposes other than agricultural, or  
6 horticultural or open space use. The values may not reflect  
value attributable to road frontage or shore frontage. In  
8 developing these values, local assessors may be guided by the  
Department of Agriculture, Food and Rural Resources as provided  
10 in section 1119 and by the State Tax Assessor as provided by  
section 1106.

12 The 100% valuation per acre for farm woodland within a  
parcel classified as farmland under this subchapter is the 100%  
14 valuation per acre for each forest type established for each  
county pursuant to subchapter II-A. Areas other than woodland,  
16 agricultural land, or horticultural land or open space located  
within any parcel of farmland or open space classified under this  
18 subchapter are valued on the basis of just value.

20 Sec. 8. 36 MRSA §1106, as amended by PL 1991, c. 508, §1, is  
repealed.

22 Sec. 9. 36 MRSA §1106-A is enacted to read:

24 §1106-A. Valuation of open space land

26 1. Valuation method. For the purposes of this subchapter,  
28 the current use value of open space land is the sale price that  
30 particular open space parcel would command in the marketplace if  
it were required to remain in the particular category or  
32 categories of open space land for which it qualifies under  
section 1102, subsection 6, adjusted by the certified ratio.

34 2. Alternative valuation method. Notwithstanding any other  
provision of law, if an assessor is unable to determine the  
36 valuation of open space land under the valuation method in  
subsection 1, the assessor may value that land under the  
38 alternative method in this subsection. The assessor may reduce  
the ordinary assessed valuation of the land, without regard to  
40 conservation easement restrictions and as reduced by the  
certified ratio, by the cumulative percentage reduction for which  
42 the land is eligible according to the following categories.

- 44 A. All open space land is eligible for a reduction of 20%.
- 46 B. Permanently protected open space land is eligible for  
the reduction set in paragraph A and an additional 30%.
- 48 C. Forever wild open space land is eligible for the  
50 reduction set in paragraphs A and B and an additional 20%.

2 D. Public access open space land is eligible for the  
4 applicable reduction set in paragraph A, B or C and an  
additional 25%.

6 Notwithstanding this section, the value of forested open space  
8 land may not be reduced to less than the value it would have  
under subchapter II-A, and the open space land valuation may not  
10 exceed just value as required under section 701-A.

12 3. Definition of land eligible for additional percentage  
14 reduction. The following categories of open space land are  
eligible for the additional percentage reduction set forth in  
subsection 2, paragraphs B, C and D.

16 A. Permanently protected open space is an area of open  
18 space land that is eligible for an additional cumulative  
20 percentage reduction in valuation because that area is  
22 subject to restrictions prohibiting building development  
under a perpetual conservation easement pursuant to Title  
33, chapter 7, subchapter VIII-A or as an open space  
preserve owned and operated by a nonprofit entity in  
accordance with section 1109, subsection 3, paragraph H.

24 B. Forever wild open space is an area of open space land  
26 that is eligible for an additional cumulative percentage  
28 reduction in valuation because it is permanently protected  
30 and subject to restrictions or committed to uses by a  
nonprofit entity in accordance with section 1109, subsection  
3, paragraph H that ensure that in the future the natural  
32 resources on that protected property will remain  
substantially unaltered, except for:

- 34 (1) Fishing or hunting;  
36 (2) Harvesting shellfish in the intertidal zone;  
38 (3) Prevention of the spread of fires or disease; or  
40 (4) Providing opportunities for low-impact outdoor  
42 recreation, nature observation and study.

44 C. Public access open space is an area of open space land,  
whether ordinary, permanently protected or forever wild,  
46 that is eligible for an additional cumulative percentage  
reduction in valuation because public access is by  
48 reasonable means and the applicant agrees to refrain from  
taking action to discourage or prohibit daytime,  
50 nonmotorized and nondestructive public use. The applicant  
may permit, but is not obligated to permit as a condition of

1 qualification for public access status, hunting,  
2 snowmobiling, overnight use or other more intensive outdoor  
3 recreational uses. The applicant, without disqualifying  
4 land from status as public access open space, may impose  
5 temporary or localized public access restrictions to:

6  
7 (1) Protect active habitat of endangered species  
8 listed under Title 12, chapter 713, subchapter V;

9  
10 (2) Prevent destruction or harm to fragile protected  
11 natural resources under Title 38, chapter 3, subchapter  
12 I, article 5-A; or

13  
14 (3) Protect the recreational user from any hazardous  
15 area.

16  
17 **Sec. 10. 36 MRSa §1109, sub-§3, as repealed and replaced by PL**  
18 **1989, c. 748, §4, is amended by amending the first paragraph to**  
19 **read:**

20  
21 **3. Open space land qualification.** The owner or owners of  
22 land who believe that ~~the--owners-~~ land falls within the  
23 definition of open space land contained in section 1102,  
24 subsection 6 shall submit a signed schedule in duplicate on or  
25 before April 1st of the year in which that land first becomes  
26 subject to taxation under this subchapter to the assessor on a  
27 form prescribed by the State Tax Assessor that must contain a  
28 description of the land, a general description of the use to  
29 which the land is being put and such other information as the  
30 assessor may require to aid in determining whether the land  
31 qualifies for such classification as open space land and for  
32 which valuation categories set forth in section 1106-A the land  
33 is eligible. The assessor shall determine whether the land falls  
34 within the definition of open space land contained in section  
35 1102, subsection 6 and, if so, that land must be classified as  
36 open space land and subject to taxation under this subchapter.  
37 In making the determination that the restriction or preservation  
38 of land ~~under--open--space~~ for which classification is sought  
39 provides a public benefit, as required in section 1102,  
40 subsection 6, the assessor shall consider all facts and  
41 circumstances pertinent to the land and its vicinity. Factors  
42 appropriate to one application may be irrelevant in determining  
43 the public benefit of another application. A single factor,  
44 whether listed below or not, may be determinative of public  
45 benefit. Among the factors to be considered are:

46  
47 **Sec. 11. 36 MRSa §1109, sub-§3, as repealed and replaced by PL**  
48 **1989, c. 748, §4, is amended by amending the last paragraph to**  
49 **read:**

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2 ~~In the event that any~~ If a parcel of land, for which the owner or  
 4 owners are seeking classification as open space, contains any  
 6 principal or accessory structures or any substantial improvements  
 8 that are inconsistent with the preservation of the land as open  
 10 space, the owner or owners in their schedule shall exclude from  
 12 their application for classification as open space a parcel of  
 14 land containing those buildings or improvements at least  
 16 equivalent in size to the state minimum lot size as prescribed by  
 18 Title 12, section 4807-A, or by the zoning ordinances or zoning  
 20 map pertaining to the area in which the land is located,  
 22 whichever is larger. For the purposes of this section, if any of  
 24 the buildings or improvements are located within shoreland areas  
 26 as defined in Title 38, chapter 3, subchapter I, article 2-B, the  
excluded parcel must include the minimum shoreland frontage  
required by the applicable minimum lot standards under the  
minimum guidelines established pursuant to Title 38, chapter 3,  
subchapter I, article 2-B or by the zoning ordinance for the area  
in which the land is located, whichever is larger. The shoreland  
frontage requirement is waived to the extent that the affected  
frontage is part of a contiguous shore path or a beach for which  
there is or will be, once classified, regular and substantial use  
by the public. The shoreland frontage requirement may be waived  
at the discretion of the legislative body of the municipality if  
it determines that a public benefit will be served by preventing  
future development near the shore or by securing access for the  
public on the particular shoreland area that would otherwise be  
excluded from classification.

28 **Sec. 12. 36 MRSA §1112, last ¶,** as enacted by PL 1989, c. 555,  
 30 §19, is amended to read:

32 For land classified as open space under this subchapter, the  
 34 penalty shall be is the same as that imposed on tree growth for  
withdrawal from tree growth classification in section 581 and may  
 36 be assessed and collected as a supplemental assessment in  
accordance with section 713-B.

38 **Sec. 13. 36 MRSA §1112,** as amended by PL 1989, c. 748, §6, is  
 40 further amended by adding at the end a new paragraph to read:

42 Notwithstanding other provisions of this section, an owner  
 44 of open space land that is classified under this subchapter and  
withdrawn from classification for the 1994 tax year may elect to  
 46 withdraw subject to the conditions specified in this paragraph.  
For withdrawal under this paragraph, the entire parcel subject to  
 48 open space classification in 1993 must be withdrawn from  
classification for the 1994 tax year. Persons electing to  
 50 withdraw land from classification under this paragraph shall  
notify the assessor before April 1, 1994 and pay a penalty equal  
to the taxes that would have been assessed on the first day of



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2 April for the 5 tax years, or any lesser number of tax years  
3 starting with the year in which the property was first  
4 classified, preceding the withdrawal had that real estate been  
5 assessed in each of those years at its fair market value on the  
6 date of withdrawal less all taxes paid on that real estate over  
7 the preceding 5 years and interest at the legal rate from the  
8 date or dates on which those amounts would have been payable. If  
9 there is a change in use of the property before April 1, 1999, an  
10 additional penalty must be assessed equal to the difference  
11 between the back taxes paid under this paragraph and the amount  
12 that would have been assessed if the land had been withdrawn on  
13 April 1, 1994 under this section plus interest at the legal rate  
14 from April 1, 1994. The procedure for withdrawal provided in  
15 this paragraph is intended to be an alternative to the procedure  
16 in other provisions of this section. Assessors shall send an  
17 information packet prepared by the State Tax Assessor to all  
18 owners of land subject to open space classification as of April  
19 1, 1993.

20 **Sec. 14. 36 MRS A §1118**, as amended by PL 1985, c. 764, §20,  
21 is further amended to read:

22 **§1118. Appeals and abatements**

23 The denial of an application or an assessment made under  
24 this subchapter is subject to the abatement procedures provided  
25 by section 841. Appeal from a decision rendered under section  
26 841 or a recommended current use value established under section  
27 ~~1106~~ 1106-A must be to the State Board of Property Tax  
28 Review.  
29

30 **Sec. 15. 36 MRS A §2724, sub-§2**, as amended by PL 1987, c. 497,  
31 §43, is further amended to read:

32 **2. Commercial forest land.** "Commercial forest land" means  
33 land which that is classified or which that is eligible for  
34 classification as forest land pursuant to the Maine Tree Growth  
35 Tax Law, chapter 105, subchapter II-A, except that "commercial  
36 forest land" does not include land described in section 573,  
37 subsection 3, paragraph B, or C ~~ex--D~~ when all commercial  
38 harvesting of forest products is prohibited. In determining  
39 whether land not classified under the Maine Tree Growth Tax Law  
40 is eligible for classification under that law, all facts and  
41 circumstances ~~shall~~ must be considered, including whether the  
42 landowner is engaged in the forest products business and the land  
43 is being used in that business or there is a forest management  
44 plan for commercial use of the land or a particular parcel of  
45 land has been harvested for commercial purposes within the  
46 preceding 5 years.  
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This bill allows municipalities that do not qualify for 90% reimbursement to receive a prorated amount if they are within 10% of the 70% threshold established by law. Since tree growth reimbursements are capped by the amount appropriated by the Legislature, no additional General Fund revenues are required to reimburse these additional municipalities at this time. However, the additional municipalities eligible for reimbursements may reduce future General Fund lapsed balances in the tree growth tax reimbursement program.

The additional costs to redistribute funds among all communities under the tree growth tax reimbursement program, if necessary, can be absorbed by the Bureau of Taxation utilizing existing budgeted resources.

STATEMENT OF FACT

This amendment changes the eligibility requirements for classifying certain parcels of forest land as tree growth and provides an alternative penalty provision for certain landowners who wish to withdraw from tree growth classification.

The amendment provides that penalties imposed as a result of withdrawal from forest land classification or as a result of disqualification from open space classification are recoverable in the same manner as the supplemental assessment process outlined in the Maine Revised Statutes, Title 36, section 713 without the 3-year limitation.

The amendment provides optional guidelines for the valuation of open space land and clarifies the existing law to eliminate the possibility that an owner of a residence in the shoreland zone may classify as open space the land between the residence and the shore.

The amendment provides an alternative penalty provision for landowners who wish to withdraw from classification upon the application of the new open space valuation method.

The amendment also adds a fiscal note.

Reported by the Committee on Taxation  
Reproduced and distributed under the direction of the Clerk of the House  
6/2/93

(Filing No. H-574)