

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

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No. 1777

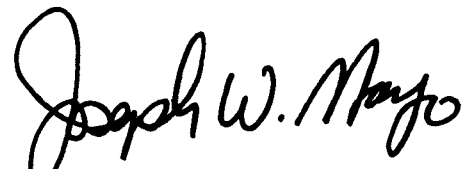
H.P. 1295

House of Representatives, February 13, 1996

**An Act to Lessen the Penalty for Withdrawal of Farms from the Farm
and Open Space Tax Law.**

Reported by Representative SPEAR for the Commission to Study Options for Preserving the Dairy Industry in the State pursuant to Resolve 1995, chapter 35, section 6.

Reference to the Joint Standing Committee on Taxation suggested and printing ordered under Joint Rule 20.


JOSEPH W. MAYO, Clerk

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

2
3 **Sec. 1. 36 MRSA §1109, sub-§5**, as amended by PL 1977, c. 467,
4 §10, is further amended to read:

6 **5. Owner obligation.** If the owner or owners of any parcel
7 of land subject to taxation under this subchapter fail to submit
8 the schedules under the foregoing provisions of this section, or
9 fail to respond, within 60 days of receipt, to written questions
10 or interrogatories of the assessor, or fail within 60 days of
11 receipt of notice as provided in this section, to appear before
12 the assessor to respond to questions or interrogatories, or fail
13 to provide information after notice duly received as provided
14 under this section, ~~such that~~ owner or owners shall-be are deemed
15 to have waived all rights of appeal.

16
17 It shall-be is the obligation of the owner or owners to report to
18 the assessor any change of use or change of classification of
19 land subject to taxation hereunder by the end of the calendar
20 year in which the change occurs and to file annually by April 1st
21 of every 5th year with the assessor a determination of the gross
22 income realized each of the previous year 5 years from acreage
23 classified as "farmland."

24
25 If the owner or owners fail to report to the assessor as required
26 by the foregoing paragraph, the assessor may collect ~~such those~~
27 taxes as that should have been paid, shall collect the penalty
28 provided in section 1112 and shall assess an additional penalty
29 of 25% of the foregoing penalty amount. The assessor may waive
30 the additional penalty for cause.

32 **Sec. 2. 36 MRSA §1109, sub-§6**, as amended by PL 1977, c. 467,
33 §11, is further amended to read:

34
35 **6. Recertification.** The assessor shall determine annually
36 every 5 years whether any classified land continues to meet the
37 requirements of this subchapter. ~~Each-year~~ Every 5 years the
38 assessor shall recertify any classifications made under this
39 subchapter. If any classified land no longer meets the
40 requirements of this subchapter, the assessor shall either remove
41 the classification or, if ~~he--deems~~ the assessor considers it
42 appropriate, allow the land to have a provisional classification
43 as detailed in subsection 2.

44
45 **Sec. 3. 36 MRSA §1112, 2nd ¶**, as amended by PL 1989, c. 555,
46 §19, is further amended to read:

47
48 For land classified as farmland under this subchapter for
49 less than 5 full years, the penalty ~~shall-be~~ is equal to 40% the
50 greater of 20% of its assessed fair market value at the time the

land is removed from the program or the amount necessary to meet
2 the requirements of the Constitution of Maine, Article IX,
3 Section 8. For land that has been classified as farmland under
4 this subchapter for ~~more than 5 full years but less than 10 full~~
5 ~~years, the penalty shall be full recapture of the taxes that~~
6 ~~would have been paid on the land for all the years it was in the~~
7 ~~program, less all taxes that were paid during those years and~~
8 ~~interest at the rate set by the town during those years on~~
9 ~~delinquent taxes.~~ For land that has been classified as farmland
10 under this subchapter for ~~more than 10 full years or more,~~ the
11 penalty shall ~~be~~ is the recapture of the taxes that would have
12 been paid on the land for the past 5 years if it had not been
13 classified under this subchapter, less all taxes that were
14 actually paid during those 5 years and interest at the rate set
15 by the town during those 5 years on delinquent taxes. An owner
16 of farmland that has been classified under this subchapter for 5
17 full years or more may pay any penalty owed under this paragraph
18 in up to 5 equal annual installments with interest at the rate
19 set by the town to begin 60 days after the date of assessment.
20 Notwithstanding section 943, for an owner paying a penalty under
21 this procedure, the period during which the tax lien mortgage,
22 including interest and costs, must be paid to avoid foreclosure,
23 and expiration of the right of redemption is 48 months from the
24 date of the filing of the tax lien certificate instead of 18
25 months.

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STATEMENT OF FACT

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This bill is one of 6 pieces of legislation submitted by the
Commission to Study Options for Preserving the Dairy Industry in
32 the State.

34

Currently, persons who withdraw their land from the
provisions of the farmland tax law within the first 5 years of
36 enrolling are penalized 40% of the assessed value. This bill
changes this penalty to the greater of 20% of the assessed value
38 or the minimum penalty established in the Constitution of Maine.
The constitutional requirement is the difference between the tax
40 paid and the tax that would have been due if the property were
not in the program plus interest on this difference.

42

44

The current penalty for withdrawing land that has been in
the program for more than 5 years but less than 10 years is
recapture of the taxes due since the land was in the program.
46 The penalty for withdrawal of land in the program for more than
10 years is recapture of the taxes for the past 5 years. This
48 bill makes the penalty for any withdrawal after more than 5 years
the recapture of taxes for the past 5 years. The bill allows the
50 owner to pay the penalty in 5 annual installments and extends the

2 time to redeem after the filing of a tax lien from 18 months to
48 months if the owner pays in installments.

4 Lastly, this bill also changes the required income reporting
and certification for those in the program from every year to
6 every 5 years.