

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 2071

H.P. 1450

House of Representatives, March 30, 1999

**An Act Concerning Penalties under the Maine Tree Growth Law and the  
Farm and Open Space Law.**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative McKENNEY of Cumberland.  
Cosponsored by Senator AMERO of Cumberland and  
Representatives: BUCK of Yarmouth, CLOUGH of Scarborough, DAVIS of Falmouth,  
LOVETT of Scarborough, MITCHELL of Vassalboro, NORBERT of Portland, SCHNEIDER  
of Durham, Senator: KONTOS of Cumberland.

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

2           **Sec. 1. 36 MRSA §581, 3rd ¶**, as amended by PL 1983, c. 400,  
4           §§1 and 3, is repealed and the following enacted in its place:

6           In either case, and except when the change in classification  
8           is occasioned by a transfer to the State or other entity holding  
10           the power of eminent domain, resulting from the exercise or  
          threatened exercise of that power, the withdrawal of land  
          subjects the owner to a penalty that is the greater of:

12           1. Taxes that would have been assessed. An amount equal to  
14           the taxes that would have been assessed on the first day of April  
16           for the 5 tax years, or any lesser number of tax years starting  
18           with the year in which the property was first classified,  
20           preceding such withdrawal had that real estate been assessed in  
          each of those years at its fair market value on the date of  
          withdrawal minus all taxes paid on that real estate over the  
          preceding 5 years, and interest at the legal rate from the date  
          or dates on which those amounts would have been payable; or

22           2. Fair market value. An amount computed by multiplying  
24           the amount, if any, by which the fair market value of the real  
26           estate on the date of withdrawal exceeds the 100% valuation of  
          the real estate pursuant to this subchapter on the preceding  
          April 1st, by the following rates:

28           A. If the real estate was subject to valuation under this  
30           subchapter for 10 years or less prior to the date of  
          withdrawal, the rate is 30%; and

32           B. If the real estate was subject to valuation under this  
34           subchapter for more than 10 years prior to the date of  
36           withdrawal, the rate of the percentage is obtained by  
38           subtracting 1% from 30% for each full year beyond 10 years  
          that the real estate was subject to valuation under this  
          subchapter prior to the date of withdrawal until a rate of  
          20% is reached.

40           Fair market value at the time of withdrawal is the assessed value  
42           of comparable property in the municipality adjusted by the  
          municipality's certified assessment ratio.

44           Notwithstanding the provisions of subsections 1 and 2, if  
46           the land has met the requirements of this subchapter for at least  
48           5 years, the assessor has the option of imposing the penalty  
          specified in subsections 1 and 2.

50           **Sec. 2. 36 MRSA §1112, 2nd ¶**, as amended by PL 1995, c. 603,  
          §2, is further amended to read:

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

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## SUMMARY

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This bill provides that tax assessors may choose whether or  
30 not to impose a penalty on landowners whose land was classified  
under the Maine Tree Growth Tax Law or the farm and open space  
32 tax law for at least 5 years but the use of which changed causing  
disqualification under that law.