

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2426

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H.P. 1720

House of Representatives, January 10, 2000

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### **An Act to Institute Current Use Taxation on all Agricultural Land.**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GREEN of Monmouth.  
Cosponsored by Senator KILKELLY of Lincoln and  
Representatives: BULL of Freeport, COWGER of Hallowell, GAGNON of Waterville,  
LEMONT of Kittery, PIEH of Bremen, VOLENIK of Brooklin, Senators: DAGGETT of  
Kennebec, KIEFFER of Aroostook.

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

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4       **Sec. 1. 36 MRSA §1102, sub-§4**, as amended by PL 1999, c. 449, §1, is further amended to read:

6       **4. Farmland.** "Farmland" means any tract or tracts of land, including woodland and wasteland, ~~of at least 5 contiguous acres~~ on which farming or agricultural activities, either by the owner or a lessee, 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.

12       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 the applicant's qualification.

18       **Sec. 2. 36 MRSA §1112, first ¶**, as repealed and replaced by PL 1987, c. 728, §9, is amended to read:

20       Any change in use disqualifying land for classification under this subchapter ~~shall cause~~ requires a penalty to be assessed by the assessors of the municipality in which the land is located, or by the State Tax Assessor if the land is not within a municipality, in addition to the annual tax in the year of disqualification except when the change is occasioned by a transfer resulting from the exercise or the threatened exercise of the power of eminent domain.

30       **Sec. 3. 36 MRSA §1112, 2nd ¶**, as amended by PL 1995, c. 603, §2, is further amended to read:

32       For land classified as farmland or horticultural land under this subchapter ~~for less than 5 full years~~, the penalty is equal to the ~~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 the 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 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 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 or horticultural land that has been classified under this subchapter ~~for 5 full years or more~~ may pay any penalty owed under this paragraph in up ~~to 5~~ a number of equal annual installments equal to the number of years the farmland or horticultural land has been classified under this subchapter with interest at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding

2 section 943, for an owner paying a penalty under this procedure,  
the period during which the tax lien mortgage, including interest  
4 and costs, must be paid to avoid foreclosure, and expiration of  
the right of redemption is 48 months from the date of the filing  
of the tax lien certificate instead of 18 months.

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8 **Sec. 4. 36 MRSA §1112, 3rd ¶**, as amended by PL 1989, c. 748,  
§6, is further amended to read:

10 A penalty may not be assessed at the time of a change of use  
12 from the farmland or horticultural land classification of land  
subject to taxation under this subchapter to the open space  
14 classification of land subject to taxation under this  
subchapter. A penalty may not be assessed upon the withdrawal of  
open space land from taxation under this subchapter if the owner  
16 applies for and is accepted for classification as timberland  
under subchapter II-A. There also is no penalty imposed when  
18 land classified as timberland is accepted for classification as  
open space land. A penalty may not be assessed upon withdrawal  
20 of open space land from taxation under this subchapter, or from  
timberland taxation under subchapter II-A, if the owner applies  
22 for and is accepted for classification as farmland or  
horticultural land under this subchapter. The recapture penalty  
24 for withdrawal from farmland or horticultural land classification  
~~within 10 years of~~ after a transfer from either open space tax  
26 classification or timberland tax classification is the same  
~~imposed on withdrawal from the prior tax classification, open~~  
28 ~~space or tree growth. The recapture penalty for withdrawal from~~  
~~farmland classification more than 10 years after such a transfer~~  
30 ~~will be the~~ regular farmland or horticultural land recapture  
penalty provided for in this section. In the event a penalty is  
32 later assessed under subchapter II-A, the period of time that the  
land was taxed as farmland, horticultural land or as open space  
34 land under this subchapter must be included for purposes of  
establishing the amount of the penalty.

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## SUMMARY

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Under current law, farmland eligible for valuation based on  
current use must be "of at least 5 contiguous acres." This  
42 restriction excludes much farmland devoted to ornamental  
horticulture. This bill eliminates the acreage restriction in  
44 the definition of farmland to expand the amount of farmland  
subject to taxation under the farmland and open space tax laws.  
46 This bill also changes the recapture penalties imposed on  
farmland or horticultural land that is disqualified from this  
48 classification after less than 5 years of being classified as  
farmland or horticultural land. The new recapture penalty is the  
50 same as that imposed on farmland classified as such for 5 or more

2 years: the minimum amount as specified in the Constitution of  
Maine.