

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 951

H.P. 708

House of Representatives, February 25, 2003

An Act To Establish the Maine Land Bank and Community Preservation Program

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PERCY of Phippsburg.
Cosponsored by Senator MAYO of Sagadahoc and
Representatives: ADAMS of Portland, JACKSON of Fort Kent, KAELIN of Winterport,
LERMAN of Augusta, PARADIS of Frenchville, PINGREE of North Haven, SMITH of
Monmouth, Senator: HATCH of Somerset.

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

4 **Sec. 1. 36 MRSA c. 105, sub-c. 11** is enacted to read:

6 **SUBCHAPTER 11**

8 **LONG-TERM OWNERSHIP TAX LAW**

10 **§1131. Program established; definitions**

12 1. Program established. The Maine Land Bank and Community
14 Preservation Program is established to provide an alternative
16 means of calculating assessed values for purposes of levying
property taxes for land held by owners who intend to maintain
long-term ownership, family ownership or make a designated
bequest.

18 2. Definitions. As used in this subchapter, unless the
20 context otherwise indicates, the following terms have the
following meanings.

22 A. "Direct relative" means parent, aunt, uncle, sibling,
24 first cousin, niece, nephew or grandchild, by birth or
adoption.

26 B. "Program" means the Maine Land Bank and Community
Preservation Program established in this subsection.

28 C. "Classified land" means land for which an application
30 under section 1132 has been accepted or for which
32 classification has been certified. "Classified land" does
34 not include any building or structure on the land or any
other thing affixed to the land that would be considered
real estate under section 551.

36 **§1132. Application by owner**

38 The owner of any land may apply for taxation under this
40 subchapter subject to the provisions of this section.

42 1. Filing application. The owner shall file a written
44 application with the assessor and a copy for recordation with the
register of deeds for the jurisdiction in which the land
46 potentially subject to taxation under the program exists. The
application must be filed on or before March 1st for the land to
48 be a classified land for the tax year beginning April 1st of the
same year.

50 2. Content. The application must be on a form prescribed
by the State Tax Assessor, must clearly identify the land

2 potentially subject to taxation under the program and must
3 include a statement that the owner has long-term ownership
4 intentions regarding that land. If there is more than one
5 recorded owner of that land, each owner must file with the
6 application written consent to elect taxation under the program.

7 3. Determination. The assessor shall notify the landowner
8 whether the application is accepted and the land is classified
9 land or the application is denied. If the application is denied,
10 the assessor shall state the reasons for the denial and provide
11 the landowner an opportunity to conform to the requirements of
12 this subchapter.

13 4. Examination; information. The assessor or the
14 assessor's authorized representative may enter and examine lands
15 under this subchapter for tax purposes and may examine any
16 information submitted by the owner or owners. Upon notice in
17 writing by certified mail, return receipt requested, any owner or
18 owners shall, within 60 days of the receipt of the notice,
19 respond to such written questions or interrogatories as the
20 assessor considers necessary to obtain material information about
21 those lands. If the assessor can not reasonably obtain the
22 required material information regarding those lands through
23 written questions or interrogatories, the assessor may require
24 any owner or owners, upon notice in writing by certified mail,
25 return receipt requested, or by such other method as provides
26 actual notice, to appear before the assessor at such reasonable
27 time and place as the assessor may designate and answer questions
28 or interrogatories necessary to obtain material information about
29 those lands.

30 5. Owner obligation. The owner or owners shall report to
31 the assessor any change in ownership of classified land.

32 §1133. Valuations

33 1. Base valuation. Except as otherwise provided, the base
34 valuation for classified land for tax purposes is assessed value
35 of the land adjusted to 100% using the state-certified ratio for
36 that year for the 5th year prior to acceptance to the program.

37 A. If the land is not classified and the owner of the land
38 applying for acceptance to the program has not owned the
39 land for that 5-year period, but acquired the land under
40 circumstances that would not be deemed a change of ownership
41 under section 1135, subsection 1, paragraph B, subparagraph
42 (1) to (8), and the current term of ownership plus the
43 immediately preceding term of ownership is at least 5 years,
44 then the 5-year look-back under this subsection applies in
45 determining base valuation.

2 B. If the owner applying for acceptance to the program has
4 not owned the land for that 5-year period, and acquired the
6 land under circumstances that constitute a change in
8 ownership under section 1135, then the base valuation for
10 classified land for tax purposes is the purchase price of
12 the land only or, if the purchase price can not be
 accurately determined, the best estimate at fair market
 value of the land, which is the assessed value of comparable
 land in the municipality or unorganized territory as
 applicable, adjusted by the applicable certified assessment
 ratio.

14 2. Program assessed value. The program assessed value for
16 classified land for tax purposes is:

18 A. For the first year under the program, the base valuation
 under subsection 1; and

20 B. For subsequent years under the program, the base
22 valuation as adjusted by any cumulative increases and
 decreases authorized under section 1134.

24 3. Change in ownership. Base valuation and program
26 assessed value under this section are subject to recalculation
 when there is a change in ownership pursuant to section 1135,
 subsection 2.

28 §1134. Assessment adjustments

30 1. Annual adjustments. The assessed value of classified
32 land may be adjusted annually on April 1st, subject to this
34 section.

36 2. Increase assessment limited. The assessed value of
 classified land may not increase under the annual adjustment by
 more than the lower of:

38 A. Two percent of the program assessed value of the prior
40 year; or

42 B. The percent change in the Consumer Price Index for all
44 urban consumers.

46 3. Decrease assessment authorized. Nothing in this
 subchapter prevents:

48 A. An assessment based on less than a 100% valuation; or

50 B. A decrease in the assessed value.

2 If the Consumer Price Index decreases, then the assessed value
4 must be decreased by the same or greater percentage.

6 4. Assessments. Classified land must be taxed at the
8 property tax rate applicable:

10 A. To other property in the municipality if the land is in
12 an organized area; or

14 B. To other property in the unorganized territory if the
16 land is in the unorganized territory.

18 **§1135. Change of ownership**

20 1. Change in ownership determined. A change of ownership
22 is:

24 A. For commercial properties, a change in controlling
26 interest of the company owning the land as defined in
28 federal tax code; and

30 B. For all other properties, a transfer by sale or grant to
32 a transferee by a transferor of all or any part of the
34 transferor's legal or equitable ownership interest in a
36 property except for a transfer:

38 (1) To a trustee for the beneficial use of the spouse
40 of the transferor or the surviving spouse of a deceased
42 transferor;

44 (2) To the spouse of the transferor that takes effect
46 upon the death of the transferor;

48 (3) That creates, transfers or terminates, solely
50 between spouses, any coowner's interest;

52 (4) To one or more direct relatives of the transferor;

54 (5) To any person by bequest;

56 (6) That confirms or corrects a previous transfer made
58 by a document that was recorded in the real estate
60 records of the county in which the land is located;

62 (7) For the purpose of quieting the title to real
64 property or resolving a disputed location of a real
66 property boundary;

2 (8) To a revocable trust by the transferor with the
3 transferor, the transferor's spouse or a direct
4 relative of the transferor as beneficiary; or

5 (9) From a revocable trust described in subparagraph
6 (8) back to the settlor or trustor or to the
7 beneficiaries of the trust.

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9 **2. Effect.** When there is a change in ownership:

10 A. If the new owner does not apply for taxation under the
11 program, the valuation reverts to fair market value as
12 defined by the purchase price of the property less the
13 resale value of the buildings located on the land or best
14 estimate of fair market value of the land; or

15 B. If the new owner applies for taxation under the program
16 and if money changes hands during the change in ownership,
17 the base valuation for the land subject to taxation under
18 the program becomes the purchase price of the land or the
19 current program assessed value under section 1133,
20 subsection 2, whichever is larger.

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23 **§1136. Penalty for withdrawal; evasion**

24 1. Penalty imposed. When there is a change of ownership as
25 determined under section 1135 or when a program participant opts
26 to withdraw from the program, except when the change is
27 occasioned by a transfer to the State or other entity holding the
28 power of eminent domain, resulting from the exercise or
29 threatened exercise of that power, a penalty upon the owner must
30 be imposed that is the greater of:

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32 A. An amount equal to the taxes that would have been
33 assessed on the first day of January for the 5 preceding tax
34 years, or any lesser number of tax years starting with the
35 year in which the land was first accepted under the program,
36 preceding such withdrawal had that land been assessed in
37 each of those years at its fair market value on the date of
38 withdrawal less all taxes paid on that real estate over the
39 preceding 5 years, and interest at the legal rate from the
40 date or dates on which those amounts would have been
41 payable; or

42 B. An amount computed by multiplying the amount, if any, by
43 which the fair market value of the land on the date of
44 withdrawal exceeds the 100% program-assessed value of the
45 land on the preceding January 1st, by the following rates:

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(1) If the land was subject to the program 10 years or less prior to the date of withdrawal, 30%; and

(2) If the land was subject to the program for more than 10 years prior to the date of withdrawal, that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the land was subject to the program prior to the date of withdrawal until a rate of 20% is reached.

Fair market value at the time of withdrawal is the assessed value of comparable land in the municipality or unorganized territory, as applicable, adjusted by the applicable certified assessment ratio.

2. Recording; title affected. When a penalty has been paid as required under subsection 1, the transaction must be recorded with the appropriate register of deeds. Until such time as the penalty is paid, the title is not considered to be clear and unencumbered.

3. Evasion. A person who intentionally attempts to avoid or lower the penalty imposed by this section or who makes false statements in making an application under this subchapter is subject to prosecution under section 184-A.

§1137. Application

1. Buildings, etc. Any building, mobile home or other thing affixed to classified land and that would be considered real estate under section 551 is subject to assessment and taxation in the same manner as if it were not on classified land.

2. Change in land holdings. Each addition to or reduction in classified land or a portion of classified land is subject to this subchapter.

3. Effect on other laws. Participation in the program does not preclude participation in other programs, such as, but not limited to, the Maine Tree Growth Tax Law or the farm and open space tax laws.

Sec. 2. Statutory referendum procedure; submission at statewide election; form of question; effective date. This Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the State at a statewide election held on the Tuesday following the first Monday of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the

2 manner prescribed by law for holding a statewide election, to
vote on the acceptance or rejection of this Act by voting on the
following question:

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6 "If an amendment to the Constitution of Maine is approved
7 permitting the Legislature to establish a different method
8 of assessment of property taxes on land used for long-term
9 ownership, do you favor ratifying the action of the 121st
10 Legislature whereby it passed an Act establishing the Maine
Land Bank and Community Preservation Program?"

12 The legal voters of each city, town and plantation shall
13 vote by ballot on this question and designate their choice by a
14 cross or check mark placed within a corresponding square below
15 the word "Yes" or "No." The ballots must be received, sorted,
16 counted and declared in open ward, town and plantation meetings
17 and returns made to the Secretary of State in the same manner as
18 votes for members of the Legislature. The Governor shall review
19 the returns and, if it appears that a majority of the legal votes
20 are cast in favor of the Act, the Governor shall proclaim that
21 fact without delay, and the Act takes effect 30 days after the
22 date of the proclamation.

24 The Secretary of State shall prepare and furnish to each
25 city, town and plantation all ballots, returns and copies of this
26 Act necessary to carry out the purposes of this referendum.

28 SUMMARY

30 This bill proposes to provide property tax relief to
31 property owners in the State. Under the bill, a voluntary Maine
32 Land Bank and Community Preservation Program is created for
33 residential and nonresidential real estate. The program would
34 apply to land only and not buildings. The base value of land
35 would be determined by looking back 5 years to the assessed value
36 of the land as adjusted by using the state-certified ratio for
37 that year. The program would include provisions requiring
38 adjustments or penalties in cases when there is a change in
39 ownership other than to a family member or by designated bequest
40 or the land is withdrawn from the program. The entire bill is
41 subject to a statutory referendum and is conditional upon an
42 amendment to the Constitution of Maine passing at the next
43 statewide election.
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