

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 189

H.P. 140

House of Representatives, January 13, 2005

**RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Provide Property Tax Relief to Owners of Property Used
for Commercial Fishing and Homestead Land**

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 Representative SMITH of Monmouth, Senator RAYE of Washington and
Representatives: BOWEN of Rockport, CARR of Lincoln, KOFFMAN of Bar Harbor, MILLS
of Farmington, PIOTTI of Unity, SCHATZ of Blue Hill, Senator: NUTTING of Androscoggin.

2 **Constitutional amendment. Resolved:** Two thirds of each
branch of the Legislature concurring, that the following
amendments to the Constitution of Maine be proposed:

4 **Constitution, Art. IX, §8, sub-§2** is amended to read:

6
7 **2. Assessment of certain lands based on current use;**
8 **penalty on change to higher use.** The Legislature shall have
power to provide for the assessment of the following types of
10 real estate whenever situated in accordance with a valuation
based upon the current use thereof and in accordance with such
12 conditions as the Legislature may enact:

14 A. Farms and agricultural lands, timberlands and woodlands;

16 B. Open space lands which are used for recreation or the
enjoyment of scenic natural beauty; and

18 C. Lands used for game management or wildlife sanctuaries;
20 and

22 D. Waterfront land and structures used primarily for
24 commercial fishing purposes, including, but not limited to,
access, dockage, processing, vessel and gear storage and the
26 purchase of marine products from a person who fishes
commercially.

28 In implementing paragraphs A, B and, C and D, the
Legislature shall provide that any change of use higher than
30 those set forth in paragraphs A, B and, C and D, except when the
change is occasioned by a transfer resulting from the exercise or
32 threatened exercise of the power of eminent domain, shall result
in the imposition of a minimum penalty equal to the tax which
34 would have been imposed over the 5 years preceding that change of
use had that real estate been assessed at its highest and best
36 use, less all taxes paid on that real estate over the preceding 5
years, and interest, upon such reasonable and equitable basis as
38 the Legislature shall determine. Any statutory or constitutional
penalty imposed as a result of a change of use, whether imposed
40 before or after the approval of this subsection, shall be
determined without regard to the presence of minerals, provided
42 that, when payment of the penalty is made or demanded, whichever
occurs first, there is in effect a state excise tax which applies
44 or would apply to the mining of those minerals. In implementing
paragraph D, the Legislature shall provide that it is the choice
46 of the municipality whether to allow the value of property listed
in paragraph D contained in that municipality to be based on
48 current use.

2 **Constitution, Art. IX, §8, sub-§6** is enacted to read:

4 6. Homestead land value. A municipality may limit the rate
6 of change in the taxable value of homestead land to the rate of
8 change in purchasing power of United States currency as
10 consistently measured by a reliable index adopted by the
Legislature. This limitation does not apply to changes in value
arising from physical alterations to the land or arising from
changes in law affecting authorized use of the land.

12 "Homestead land" means land that is exclusively and continuously
14 owned by one or more residents of the State while the land
remains the principal home of each owner. The taxable value of
the parcel must be restored to just value upon change in
ownership or use. A homestead parcel qualifying for the
limitation may not be larger than reasonably necessary to support
a personal residence and may be otherwise limited or defined by
the Legislature.

20 The decision by a municipality to limit the rate of change in
22 taxable value of homestead land under this subsection does not
24 affect the determination of the equalized just value of taxable
property in the municipality for any purpose.

26 ; and be it further

28 **Constitutional referendum procedure; form of question; effective**
date. Resolved: That the municipal officers of this State shall
30 notify the inhabitants of their respective cities, towns and
plantations to meet, in the manner prescribed by law for holding
32 a statewide election, at a statewide election, on the Tuesday
following the first Monday of November following the passage of
34 this resolution, to vote upon the ratification of the amendment
proposed in this resolution by voting upon the following question:

36 "Do you favor amending the Constitution of Maine to allow:

38 1. The Legislature to provide for the assessment of land
40 and structures used primarily for commercial fishing
purposes based on the current use of that property, if the
42 municipality in which the land and structures are found
decides to make that option available; and

44 2. Municipalities to limit the rate of change in the
46 taxable value of homestead land to the rate of change in
purchasing power of United States currency as consistently
48 measured by a reliable index adopted by the Legislature?"

50 The legal voters of each city, town and plantation shall

2 vote by ballot on this question and designate their choice by a
3 cross or check mark placed within the corresponding square below
4 the word "Yes" or "No." The ballots must be received, sorted,
5 counted and declared in open ward, town and plantation meetings
6 and returns made to the Secretary of State in the same manner as
7 votes for members of the Legislature. The Governor shall review
8 the returns and, if it appears that a majority of the legal votes
9 are cast in favor of the amendment, the Governor shall proclaim
10 that fact without delay and the amendment becomes part of the
11 Constitution of Maine on the date of the proclamation; and be it
12 further

13 **Secretary of State shall prepare ballots. Resolved:** That the
14 Secretary of State shall prepare and furnish to each city, town
15 and plantation all ballots, returns and copies of this resolution
16 necessary to carry out the purposes of this referendum.

17 **SUMMARY**

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19
20 This constitutional resolution allows the Legislature to
21 provide for the assessment of land and structures used primarily
22 for commercial fishing purposes based on the current use of that
23 property; a municipality would be given the option of
24 participating in this assessment.

25
26 This constitutional amendment also proposes to authorize a
27 municipality to limit the rate of change in the tax rate
28 applicable to homestead land, which is land that is exclusively
29 and continuously owned by one or more residents of the State
30 while the land remains the principal home of each owner, to the
31 rate of change in the purchasing power of United States currency
32 as consistently measured by a reliable index adopted by the
Legislature.