

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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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**

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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  
change in purchasing power of United States currency as  
8 consistently measured by a reliable index adopted by the  
Legislature. This limitation does not apply to changes in value  
10 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  
16 the parcel must be restored to just value upon change in  
ownership or use. A homestead parcel qualifying for the  
18 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  
affect the determination of the equalized just value of taxable  
24 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**

18  
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.