

MAINE STATE LEGISLATURE

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DATE: 5/18/15

(Filing No. H-403)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 902, L.D. 1305, Bill, "An Act To Encourage Long-term Holding of Maine Timberland and Sustainable Forest Management"

Amend the bill by striking out all of section 3 and inserting in its place the following:

Sec. 3. 36 MRSA §5122, sub-§2, ¶U is enacted to read:

U. For income tax years beginning on or after January 1, 2015, the gain attributable to the sale of sustainably managed, eligible timberlands as calculated in this paragraph.

(1) As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Commercial harvesting" or "commercially harvested" means the harvesting of forest products that have commercial value.

(b) "Eligible timberlands" means land of at least 10 acres located in the State and used primarily for the growth of trees to be commercially harvested. Land that would otherwise be included within this definition may not be excluded because of:

(i) Use of the land for multiple public recreation activities;

(ii) Statutory or governmental restrictions that prevent commercial harvesting of trees

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or require a primary use of the land other than commercial harvesting;

(iii) Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or

(iv) Past or present multiple use for mineral exploration.

(c) "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

(d) "Sustainably managed" means:

(i) A forest management and harvest plan, as defined in section 573, subsection 3-A, has been prepared for the eligible timberlands and has been in effect for the entire time period used to compute the amount of the subtraction modification under this paragraph; and

(ii) The taxpayer has received a written statement from a licensed forester certifying that, as of the time of the sale, the eligible timberlands have been managed in accordance with the plan under subdivision (i) during that period.

(2) To the extent they are included in the taxpayer's federal adjusted gross income, the following amounts must be subtracted from federal adjusted gross income:

(a) For eligible timberlands held by the taxpayer for at least a 10-year period beginning on or after January 1, 2005 but less than an 11-year period beginning on or after January 1, 2005, 1/15 of the gain recognized on the sale of the eligible timberlands;

2 (b) For eligible timberlands held by the taxpayer
3 for at least an 11-year period beginning on or
4 after January 1, 2005 but less than a 12-year
5 period beginning on or after January 1, 2005, 2/15
6 of the gain recognized on the sale of the eligible
7 timberlands;

8 (c) For eligible timberlands held by the taxpayer
9 for at least a 12-year period beginning on or
10 after January 1, 2005 but less than a 13-year
11 period beginning on or after January 1, 2005, 1/5
12 of the gain recognized on the sale of the eligible
13 timberlands;

14 (d) For eligible timberlands held by the taxpayer
15 for at least a 13-year period beginning on or
16 after January 1, 2005 but less than a 14-year
17 period beginning on or after January 1, 2005, 4/15
18 of the gain recognized on the sale of the eligible
19 timberlands;

20 (e) For eligible timberlands held by the taxpayer
21 for at least a 14-year period beginning on or
22 after January 1, 2005 but less than a 15-year
23 period beginning on or after January 1, 2005, 1/3
24 of the gain recognized on the sale of the eligible
25 timberlands;

26 (f) For eligible timberlands held by the taxpayer
27 for at least a 15-year period beginning on or
28 after January 1, 2005 but less than a 16-year
29 period beginning on or after January 1, 2005, 2/5
30 of the gain recognized on the sale of the eligible
31 timberlands;

32 (g) For eligible timberlands held by the taxpayer
33 for at least a 16-year period beginning on or
34 after January 1, 2005 but less than a 17-year
35 period beginning on or after January 1, 2005, 7/15
36 of the gain recognized on the sale of the eligible
37 timberlands;

38 (h) For eligible timberlands held by the taxpayer
39 for at least a 17-year period beginning on or
40 after January 1, 2005 but less than an 18-year
41 period beginning on or after January 1, 2005, 8/15
42 of the gain recognized on the sale of the eligible
43 timberlands;

2 (i) For eligible timberlands held by the taxpayer
3 for at least an 18-year period beginning on or
4 after January 1, 2005 but less than a 19-year
5 period beginning on or after January 1, 2005, 3/5
6 of the gain recognized on the sale of the eligible
7 timberlands;

8 (j) For eligible timberlands held by the taxpayer
9 for at least a 19-year period beginning on or
10 after January 1, 2005 but less than a 20-year
11 period beginning on or after January 1, 2005, 2/3
12 of the gain recognized on the sale of the eligible
13 timberlands;

14 (k) For eligible timberlands held by the taxpayer
15 for at least a 20-year period beginning on or
16 after January 1, 2005 but less than a 21-year
17 period beginning on or after January 1, 2005,
18 11/15 of the gain recognized on the sale of the
19 eligible timberlands;

20 (l) For eligible timberlands held by the taxpayer
21 for at least a 21-year period beginning on or
22 after January 1, 2005 but less than a 22-year
23 period beginning on or after January 1, 2005, 4/5
24 of the gain recognized on the sale of the eligible
25 timberlands;

26 (m) For eligible timberlands held by the taxpayer
27 for at least a 22-year period beginning on or
28 after January 1, 2005 but less than a 23-year
29 period beginning on or after January 1, 2005,
30 13/15 of the gain recognized on the sale of the
31 eligible timberlands;

32 (n) For eligible timberlands held by the taxpayer
33 for at least a 23-year period beginning on or
34 after January 1, 2005 but less than a 24-year
35 period beginning on or after January 1, 2005,
36 14/15 of the gain recognized on the sale of the
37 eligible timberlands; or

38 (o) For eligible timberlands held by the taxpayer
39 for at least a 24-year period beginning on or
40 after January 1, 2005, all of the gain recognized
41 on the sale of the eligible timberlands.

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48 (3) Taxpayers claiming this credit must attach a sworn
49 statement from a forester licensed pursuant to Title
50 32, chapter 76 that the timberlands for which the

2 credit is claimed have been managed sustainably. For
3 the purposes of this subparagraph, "sustainably" means
4 that the timberlands for which the credit is claimed
5 have been managed to protect soil productivity and to
6 maintain or improve stand productivity and timber
7 quality; known occurrences of threatened or endangered
8 species and rare or exemplary natural communities;
9 significant wildlife habitat and essential wildlife
10 habitat; and water quality, wetlands and riparian zones.

11 Upon request of the State Tax Assessor, the Director of
12 the Bureau of Forestry within the Department of
13 Conservation may provide assistance in determining
14 whether timberlands for which the credit is claimed
15 have been managed sustainably. When assistance is
16 requested under this subparagraph, the director or the
17 director's designee may enter and examine the
18 timberlands for the purpose of determining whether the
19 timberlands have been managed sustainably.

20 In the case of timberlands owned by an entity that is
21 treated as a pass-through entity for income tax purposes,
22 the land must be treated as eligible timberland if ownership
23 and use of the land by the pass-through entity satisfies the
24 requirements of this paragraph. If the owner of the
25 eligible timberlands is an S corporation, the taxpayer must
26 subtract the owner's pro rata share of the gain. If the
27 owner of the timberlands is a partnership or limited
28 liability company taxed as a partnership, the taxpayer must
29 subtract the taxpayer's distributive share of the gain,
30 subject to the percentage limitations provided in this
31 paragraph.

32 This modification may not reduce Maine taxable income to
33 less than zero. To the extent this modification results in
34 Maine taxable income that is less than zero for the taxable
35 year, the excess negative modification amount may be carried
36 forward and applied as a subtraction modification for up to
37 10 taxable years. The entire amount of the excess negative
38 modification must be carried to the earliest of the taxable
39 years to which, by reason of this subsection, the negative
40 modification may be carried and then to each of the other
41 taxable years to the extent the unused negative modification
42 is not used for a prior taxable year. Earlier carry-forward
43 modifications must be used before newer modifications
44 generated in later years.'

45 Further amend the bill by striking out all of section 6 and
46 inserting in its place the following:
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'Sec. 6. 36 MRSA §5200-A, sub-§2, ¶P is enacted to read:

P. For income tax years beginning on or after January 1, 2015, the gain attributable to the sale of sustainably managed, eligible timberlands as calculated pursuant to this paragraph.

(1) As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Commercial harvesting" or "commercially harvested" means the harvesting of forest products that have commercial value.

(b) "Eligible timberlands" means land of at least 10 acres located in the State and used primarily for the growth of trees to be commercially harvested. Land that would otherwise be included within this definition may not be excluded because of:

(i) Use of the land for multiple public recreation activities;

(ii) Statutory or governmental restrictions that prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;

(iii) Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or

(iv) Past or present multiple use for mineral exploration.

(c) "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

(d) "Sustainably managed" means:

(i) A forest management and harvest plan, as defined in section 573, subsection 3-A, has

2 been prepared for the eligible timberlands
3 and has been in effect for the entire time
4 period used to compute the amount of the
5 subtraction modification under this
6 paragraph; and

7 (ii) The taxpayer has received a written
8 statement from a licensed forester certifying
9 that, as of the time of the sale, the
10 eligible timberlands have been managed in
11 accordance with the plan under subdivision
12 (i) during that period.

13 (2) To the extent included in the taxpayer's taxable
14 income under the laws of the United States, the taxable
15 income of the taxpayer under the laws of the United
16 States must be decreased by:

17 (a) For eligible timberlands held by the taxpayer
18 for at least a 10-year period beginning on or
19 after January 1, 2005 but less than an 11-year
20 period beginning on or after January 1, 2005, 1/15
21 of the gain recognized on the sale of the eligible
22 timberlands;

23 (b) For eligible timberlands held by the taxpayer
24 for at least an 11-year period beginning on or
25 after January 1, 2005 but less than a 12-year
26 period beginning on or after January 1, 2005, 2/15
27 of the gain recognized on the sale of the eligible
28 timberlands;

29 (c) For eligible timberlands held by the taxpayer
30 for at least a 12-year period beginning on or
31 after January 1, 2005 but less than a 13-year
32 period beginning on or after January 1, 2005, 1/5
33 of the gain recognized on the sale of the eligible
34 timberlands;

35 (d) For eligible timberlands held by the taxpayer
36 for at least a 13-year period beginning on or
37 after January 1, 2005 but less than a 14-year
38 period beginning on or after January 1, 2005, 4/15
39 of the gain recognized on the sale of the eligible
40 timberlands;

41 (e) For eligible timberlands held by the taxpayer
42 for at least a 14-year period beginning on or
43 after January 1, 2005 but less than a 15-year
44 period beginning on or after January 1, 2005, 1/3
45 of the gain recognized on the sale of the eligible
46 timberlands;

2 of the gain recognized on the sale of the eligible
 timberlands:

4 (f) For eligible timberlands held by the taxpayer
 for at least a 15-year period beginning on or
6 after January 1, 2005 but less than a 16-year
 period beginning on or after January 1, 2005, 2/5
8 of the gain recognized on the sale of the eligible
 timberlands:

10 (g) For eligible timberlands held by the taxpayer
 for at least a 16-year period beginning on or
12 after January 1, 2005 but less than a 17-year
 period beginning on or after January 1, 2005, 7/15
14 of the gain recognized on the sale of the eligible
 timberlands:
16

18 (h) For eligible timberlands held by the taxpayer
 for at least a 17-year period beginning on or
20 after January 1, 2005 but less than an 18-year
 period beginning on or after January 1, 2005, 8/15
22 of the gain recognized on the sale of the eligible
 timberlands:
24

26 (i) For eligible timberlands held by the taxpayer
 for at least an 18-year period beginning on or
28 after January 1, 2005 but less than a 19-year
 period beginning on or after January 1, 2005, 3/5
30 of the gain recognized on the sale of the eligible
 timberlands:

32 (j) For eligible timberlands held by the taxpayer
 for at least a 19-year period beginning on or
34 after January 1, 2005 but less than a 20-year
 period beginning on or after January 1, 2005, 2/3
36 of the gain recognized on the sale of the eligible
 timberlands:
38

40 (k) For eligible timberlands held by the taxpayer
 for at least a 20-year period beginning on or
42 after January 1, 2005 but less than a 21-year
 period beginning on or after January 1, 2005,
44 11/15 of the gain recognized on the sale of the
 eligible timberlands:

46 (l) For eligible timberlands held by the taxpayer
 for at least a 21-year period beginning on or
48 after January 1, 2005 but less than a 22-year
 period beginning on or after January 1, 2005, 4/5

COMMITTEE AMENDMENT "A" to H.P. 902, L.D. 1305

2 of the gain recognized on the sale of the eligible
timberlands;

4 (m) For eligible timberlands held by the taxpayer
for at least a 22-year period beginning on or
6 after January 1, 2005 but less than a 23-year
period beginning on or after January 1, 2005,
8 13/15 of the gain recognized on the sale of the
eligible timberlands;

10 (n) For eligible timberlands held by the taxpayer
12 for at least a 23-year period beginning on or
after January 1, 2005 but less than a 24-year
14 period beginning on or after January 1, 2005,
14/15 of the gain recognized on the sale of the
16 eligible timberlands; or

18 (o) For eligible timberlands held by the taxpayer
for at least a 24-year period beginning on or
20 after January 1, 2005, all of the gain recognized
on the sale of the eligible timberlands.

22 (3) Taxpayers claiming this credit must attach a sworn
24 statement from a forester licensed pursuant to Title
32, chapter 76 that the timberlands for which the
26 credit is claimed have been managed sustainably. For
the purposes of this subparagraph, "sustainably" means
28 that the timberlands for which the credit is claimed
have been managed to protect soil productivity and to
30 maintain or improve stand productivity and timber
quality; known occurrences of threatened or endangered
32 species and rare or exemplary natural communities;
significant wildlife habitat and essential wildlife
34 habitat; and water quality, wetlands and riparian zones.

36 Upon request of the State Tax Assessor, the Director of
the Bureau of Forestry within the Department of
38 Conservation may provide assistance in determining
whether timberlands for which the credit is claimed
40 have been managed sustainably. When assistance is
requested under this subparagraph, the director or the
42 director's designee may enter and examine the
timberlands for the purpose of determining whether the
44 timberlands have been managed sustainably.

46 In the case of timberlands owned by an entity that is
treated as a pass-through entity for income tax purposes,
48 the land must be treated as eligible timberland if ownership
and use of the land by the pass-through entity satisfies the
50 requirements of this paragraph. If the owner of the

2 eligible timberlands is an S corporation, the taxpayer must
3 subtract the owner's pro rata share of the gain. If the
4 owner of the timberlands is a partnership or limited
5 liability company taxed as a partnership, the taxpayer must
6 subtract the taxpayer's distributive share of the gain,
7 subject to the percentage limitations provided in this
8 paragraph.

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10 This modification may not reduce Maine taxable income to
11 less than zero. To the extent this modification results in
12 Maine taxable income that is less than zero for the taxable
13 year, the excess negative modification amount may be carried
14 forward and applied as a subtraction modification for up to
15 10 taxable years. The entire amount of the excess negative
16 modification must be carried to the earliest of the taxable
17 years to which, by reason of this subsection, the negative
18 modification may be carried and then to each of the other
19 taxable years to the extent the unused negative modification
20 is not used for a prior taxable year. Earlier carry-forward
21 modifications must be used before newer modifications
22 generated in later years.'

24 **SUMMARY**

25 This amendment adds a requirement that eligible timberlands
26 be sustainably managed. This amendment also provides that the
27 amount of the deduction increases incrementally over a 15-year
28 period beginning after the 10th year of ownership.
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FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1305

LR 1758(02)

An Act To Encourage Long-term Holding of Maine Timberland and Sustainable Forest Management

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

Future biennium revenue decrease - General Fund

Fiscal Detail and Notes

This bill will reduce General Fund revenue beginning in fiscal year 2014-15.