

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 993

S.P. 371

In Senate, March 12, 2009

An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland Pertaining to Taxation

Reported by Senator NUTTING of Androscoggin for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Public Law 2007, chapter 649, section 11, subsection 6.

Reference to the Committee on Taxation suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

2 **Sec. 1. 36 MRSA §1102, sub-§4**, as amended by PL 1999, c. 731, Pt. Y, §1, is
3 further amended to read:

4 **4. Farmland.** "Farmland" means any tract or tracts of land, including woodland and
5 wasteland, of at least 5 contiguous acres on which farming or agricultural activities have
6 contributed to a gross annual farming income of at least \$2,000 per year from the sales
7 value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the
8 2, or 3 of the 5, calendar years preceding the date of application for classification. The
9 farming or agricultural activity and income derived from that activity may be achieved by
10 either the owner or a lessee of the land.

11 Gross income as used in this section includes the value of commodities produced for
12 consumption by the farm household. Any applicant for assessment under this subchapter
13 bears the burden of proof as to the applicant's qualification.

14 **Sec. 2. 36 MRSA §1122** is enacted to read:

15 **§1122. Reimbursement for farmland classified under this subchapter**

16 **1. Calculation of reimbursement.** The State Tax Assessor shall determine annually
17 the amount of acreage in each municipality that is classified as farmland and taxed in
18 accordance with this subchapter. A municipality is entitled to annual payments distributed
19 in accordance with this section from money appropriated by the Legislature if the
20 municipality submits an annual return in accordance with section 383 and if the
21 municipality achieves the minimum assessment ratio established in section 327. The State
22 Tax Assessor shall pay any municipal claim found to be in satisfactory form by August
23 1st of the year following the submission of the annual return. The municipal
24 reimbursement appropriation is calculated on the basis of 90% of the per acre tax revenue
25 lost as a result of this subchapter. For purposes of this section, the tax lost is the tax that
26 would have been assessed, but for this subchapter, on the classified farmlands if they
27 were assessed according to the unclassified farmland values used in the state valuation
28 then in effect or according to the current local valuation on unclassified farmland,
29 whichever is less, minus the tax that was actually assessed on the same lands in
30 accordance with this subchapter and adjusted for the aggregate municipal savings in
31 required educational costs attributable to reduced state valuation. A municipality that fails
32 to achieve the minimum assessment ratio established in section 327 loses 10% of the
33 reimbursement provided by this section for each one percentage point the minimum
34 assessment ratio falls below the ratio established in section 327.

35 **2. Administration.** The State Tax Assessor shall adopt rules necessary to
36 implement the provisions of this section. Rules adopted pursuant to this subsection are
37 routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

38 **A.** The State Tax Assessor shall distribute reimbursement under this section to each
39 municipality in proportion to the product of the reduced farmland valuation of the
40 municipality multiplied by the property tax burden of the municipality. For purposes

1 of this paragraph, unless the context otherwise indicates, the following terms have the
2 following meanings.

3 (1) "Average value of unclassified farmland" means the per acre farmland
4 valuations used in the state valuation then in effect or according to the current
5 local valuation on unclassified farmland as determined for state valuation
6 purposes, whichever is less.

7 (2) "Property tax burden" means the total real and personal property taxes
8 assessed in the most recently completed municipal fiscal year, except the taxes
9 assessed on captured value within a tax increment financing district, divided by
10 the latest state valuation certified to the Secretary of State.

11 (3) "Reduced farmland valuation" means the difference between the average
12 value of unclassified farmland and the average value of classified farmland times
13 the total number of acres classified as farmland under this subchapter.

14 (4) "Unclassified farmland" means acreage actively used for agricultural
15 purposes that is not:

16 (a) Classified under the laws governing current use valuation set forth in this
17 subchapter, subchapter 2-A or subchapter 10-A;

18 (b) A base lot; or

19 (c) Waste land.

20 **Sec. 3. 36 MRSA §5219-DD is enacted to read:**

21 **§5219-DD. Credit for conservation or qualified conservation contribution of**
22 **farmland**

23 **1. Credit.** A taxpayer who has qualified for and claimed on the taxpayer's federal
24 income tax return, under Section 170 of the Code, a charitable deduction for a gift of
25 farmland for conservation or for a qualified conservation contribution donated after
26 January 1, 2009 on a qualified real property interest in farmland located in this State may
27 claim a credit against the tax imposed by this Part for the applicable tax year in an
28 amount equal to 15% of the total amount of the federal deduction attributable to the gift
29 of farmland for conservation or to the qualified real property interest in farmland located
30 in this State subject to the caps provided in subsection 6.

31 **2. Carry-forward.** If the amount of the credit under this section exceeds the
32 maximum credit that may be used in any particular taxable year as provided in subsection
33 3 or 6, the excess credit may be carried forward to succeeding taxable years until all the
34 credit is claimed.

35 **3. Refundability.** The credit provided by this section is refundable up to 20% of the
36 amount of the total credit for which the taxpayer is eligible in a taxable year for the
37 qualified conservation contribution of farmland.

38 **4. Limitation.** A gift or donation is eligible for a credit under this section only if it
39 meets the requirements of rules adopted by the Commissioner of Agriculture, Food and
40 Rural Resources under this subsection. The commissioner shall adopt rules, in

1 consultation with the State Tax Assessor, by October 1, 2009. Rules adopted under this
2 subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

3 **5. Qualified appraisal.** The fair market value of a qualified donation made pursuant
4 to this section must be substantiated by a qualified appraisal prepared by a qualified
5 appraiser as defined under applicable federal law and regulations applicable to charitable
6 contributions.

7 **6. Maximum credit.** The credit provided for in this section may not exceed
8 \$250,000 for a return filed under chapter 817 or 819 or \$100,000 for other returns filed
9 under this Part.

10 **Sec. 4. Application.** This Act applies to tax years beginning on or after January 1,
11 2009.

12 SUMMARY

13 This bill provides that amounts used to demonstrate eligibility under the farm and
14 open space tax laws must be from the sale of agricultural products as defined in the
15 Maine Revised Statutes, Title 7, section 152. It also provides for towns to be reimbursed
16 90% of the revenue lost for farmland classified under the farm and open space tax laws.

17 It also provides a transferable income tax credit for voluntary contributions of
18 farmland for conservation and for conservation easements of farmland that qualify as
19 charitable donations under the federal income tax. The credit is equal to 15% of the value
20 of the donation up to \$250,000 for corporate donors and \$100,000 for other donors. The
21 credit is refundable up to 20% per year.