

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1142

H.P. 848

House of Representatives, March 16, 2011

### An Act To Amend the Farm and Open Space Tax Law

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative KNIGHT of Livermore Falls.  
Cosponsored by Senator MASON of Androscoggin and  
Representatives: BERRY of Bowdoinham, FLEMINGS of Bar Harbor, FOSSEL of Alna,  
HARMON of Palermo, PICCHIOTTI of Fairfield, WINTLE of Garland, Senators: LANGLEY  
of Hancock, TRAHAN of Lincoln.

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

2 **Sec. 1. 36 MRSA §1102, sub-§4-A** is enacted to read:

3 **4-A. Farm-related structure.** "Farm-related structure" means a building or  
4 structure necessary for farm operations, including, but not limited to, barns, farm stands,  
5 storage facilities and silos, located on land classified as farmland under this subchapter.

6 **Sec. 2. 36 MRSA §1105-A** is enacted to read:

7 **§1105-A. Valuation of farm-related structures**

8 The municipal assessor, chief assessor or State Tax Assessor for the unorganized  
9 territory shall establish the 100% valuation of a farm-related structure based on the  
10 current use value of the farm-related structure as established by the Department of  
11 Agriculture, Food and Rural Resources as provided in section 1119. The values may not  
12 reflect development or market value for purposes other than agricultural or horticultural  
13 use. The values may not reflect value attributable to road frontage or shore frontage.

14 **Sec. 3. 36 MRSA §1109, sub-§1**, as amended by PL 1987, c. 728, §6, is further  
15 amended to read:

16 **1. Schedule.** The owner or owners of farmland subject to taxation under this  
17 subchapter shall submit a signed schedule in duplicate, on or before April 1st of the year  
18 in which the owner or owners wish to first subject such land to taxation under this  
19 subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor  
20 identifying the land and farm-related structures to be taxed hereunder, listing the number  
21 of acres of each farmland classification, showing the location of the land in each  
22 classification and the location and dimensions of each farm-related structure and  
23 representing that the land is farmland within the meaning of section 1102, subsection 4  
24 and that each farm-related structure is within the meaning of section 1102, subsection  
25 4-A. In determining whether such land is farmland, there ~~shall~~ **must** be taken into  
26 account, among other things, the acreage of such land, the portion thereof in actual use  
27 for farming or agricultural operations, the productivity of such land, the gross income  
28 derived therefrom, the nature and value of the equipment used in connection therewith  
29 and the extent to which the tracts comprising such land are contiguous. If the assessor  
30 finds that the land meets the requirements of section 1102, subsection 4, the assessor shall  
31 classify it as farmland; and apply the appropriate 100% ~~valuations~~ valuation per acre for  
32 farmland and it ~~shall be~~ **is** subject to taxation under this subchapter. If the assessor finds  
33 that a farm-related structure meets the requirements of section 1102, subsection 4-A, the  
34 assessor shall classify it as a farm-related structure and apply the appropriate 100%  
35 valuation and it is subject to taxation under this subchapter.

36 The assessor shall record, in the municipal office of the town in which the farmland is  
37 located, the value of the farmland and any farm-related structures as established under  
38 this subchapter and the value at which the farmland and any farm-related structures  
39 would have been assessed had ~~it~~ they not been classified under this subchapter.

1           **Sec. 4. 36 MRSA §1109, sub-§4**, as amended by PL 2007, c. 438, §27, is further  
2 amended to read:

3           **4. Investigation.** The assessor shall notify the landowner, on or before June 1st  
4 following receipt of a signed schedule meeting the requirements of this section, whether  
5 the application has been accepted or denied. If the application is denied, the assessor  
6 shall state the reasons for the denial and provide the landowner an opportunity to amend  
7 the schedule to conform to the requirements of this subchapter.

8           The assessor or the assessor's duly authorized representative may enter and examine lands  
9 or farm-related structures subject to taxation under this subchapter and may examine any  
10 information submitted by the owner or owners.

11           The assessor may require the owner to respond within 60 days of the receipt of notice in  
12 writing by certified mail, return receipt requested, to written questions or interrogatories  
13 the assessor considers necessary to obtain material information about those lands or  
14 farm-related structures. If the assessor determines that the required material information  
15 regarding those lands or farm-related structures cannot reasonably be obtained through  
16 written questions or interrogatories, the assessor may require the owner, upon notice in  
17 writing by certified mail, return receipt requested, or by another method that provides  
18 actual notice, to appear before the assessor at a reasonable time and place designated by  
19 the assessor and answer questions or interrogatories the assessor considers necessary to  
20 obtain material information about those lands or farm-related structures.

21           If the owner of a parcel of land subject to taxation under this subchapter fails to submit  
22 the schedules required by this section, fails to respond to written questions or  
23 interrogatories of the assessor as provided in this subsection or fails to appear before the  
24 assessor to respond to questions or interrogatories as provided in this subsection, that  
25 owner or owners are deemed to have waived all rights of appeal.

26           **Sec. 5. 36 MRSA §1109, sub-§5**, as repealed and replaced by PL 2007, c. 438,  
27 §28, is amended to read:

28           **5. Owner obligation.** It is the obligation of the owner to report to the assessor any  
29 change of use or change of classification of land subject to taxation under this subchapter  
30 by the end of the tax year in which the change occurs and to report to the assessor on or  
31 before April 1st of every 5th year the gross income realized in each of the previous 5  
32 years from acreage classified as farmland. An owner is not obligated to report the  
33 presence of a farm-related structure and the assessor may not consider the presence of a  
34 farm-related structure a change of use or classification.

35           If the owner fails to report to the assessor as required by this subsection, the assessor shall  
36 assess those taxes that should have been paid, shall assess the penalty provided in section  
37 1112 and shall assess an additional penalty equal to 25% of the penalty provided in  
38 section 1112. The assessor may waive the additional penalty for cause.

39           **Sec. 6. 36 MRSA §1109, sub-§6**, as amended by PL 1977, c. 467, §11, is further  
40 amended to read:

1           **6. Recertification.** The assessor shall determine annually whether any classified land  
2 continues to meet the requirements of this subchapter. Each year the assessor shall  
3 recertify any classifications made under this subchapter. If any classified land no longer  
4 meets the requirements of this subchapter, the assessor shall either remove the  
5 classification or, if ~~he~~ the assessor deems it appropriate, allow the land to have a  
6 provisional classification as detailed in subsection 2. The assessor may not fail to  
7 recertify any classified land under this subchapter due to the presence of a farm-related  
8 structure if the land continues to otherwise meet the requirements of this subchapter.

9           **Sec. 7. 36 MRSA §1110**, as repealed and replaced by PL 1977, c. 696, §269, is  
10 amended to read:

11           **§1110. Reclassification**

12           Land or a farm-related structure subject to taxes under this subchapter may be  
13 reclassified as to land classification by the municipal assessor, chief assessor or State Tax  
14 Assessor upon application of the owner with a proper showing of the reasons justifying  
15 that reclassification or upon the initiative of the respective municipal assessor, chief  
16 assessor or State Tax Assessor where the facts justify the same. In the event that the  
17 municipal assessor, chief assessor or State Tax Assessor determines, upon ~~his~~ such  
18 assessor's own initiative, to reclassify land or a farm-related structure previously  
19 classified under this subchapter, ~~he~~ such assessor shall provide to the owner or owners of  
20 the land by certified mail, return receipt requested, notice of ~~his~~ the intention to reclassify  
21 that land or a farm-related structure and the reasons therefor.

22           **Sec. 8. 36 MRSA §1112, first ¶**, as repealed and replaced by PL 1987, c. 728, §9,  
23 is amended to read:

24           Any change in use disqualifying land or a farm-related structure for classification  
25 under this subchapter ~~shall cause~~ causes a penalty to be assessed by the assessors of the  
26 municipality in which the land is located, or by the State Tax Assessor if the land is not  
27 within a municipality, in addition to the annual tax in the year of disqualification except  
28 when the change is occasioned by a transfer resulting from the exercise or the threatened  
29 exercise of the power of eminent domain.

30           **Sec. 9. 36 MRSA §1112, 2nd ¶**, as amended by PL 1999, c. 731, Pt. Y, §5, is  
31 further amended to read:

32           For land that has been classified as farmland under this subchapter, the penalty is the  
33 recapture of the taxes that would have been paid on the land for the past 5 years if it had  
34 not been classified under this subchapter, less all taxes that were actually paid during  
35 those 5 years and interest at the rate set by the town during those 5 years on delinquent  
36 taxes. For a farm-related structure that has been classified under this subchapter, the  
37 penalty is the recapture of the taxes that would have been paid on the farm-related  
38 structure for the past 5 years if it had not been classified under this subchapter, less all  
39 taxes that were actually paid during those 5 years and interest at the rate set by the town  
40 during those 5 years on delinquent taxes. An owner of farmland or a farm-related  
41 structure that has been classified under this subchapter for 5 full years or more may pay  
42 any penalty owed under this paragraph in up to 5 equal annual installments with interest

1 at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding  
2 section 943, for an owner paying a penalty under this procedure, the period during which  
3 the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and  
4 expiration of the right of redemption is 48 months from the date of the filing of the tax  
5 lien certificate instead of 18 months.

6 **Sec. 10. 36 MRSA §1119**, as amended by PL 2001, c. 652, §8, is further amended  
7 to read:

8 **§1119. Valuation guidelines**

9 By December 31, 2000 and biennially thereafter, the Department of Agriculture,  
10 Food and Rural Resources working with the Bureau of Revenue Services, representatives  
11 of municipal assessors and farmers shall prepare guidelines to assist local assessors in the  
12 valuation of farmland and a method for determining the current use value of farm-related  
13 structures. The department shall also deliver ~~these~~ the guidelines and method in training  
14 sessions for local assessors throughout the State. These guidelines must include  
15 recommended values for cropland, orchard land, pastureland and horticultural land,  
16 differentiated by region where justified. Any variation in assessment of farmland from  
17 the recommended values must be substantiated by the local assessor within the  
18 parameters allowed within this subchapter.

19 **SUMMARY**

20 This bill allows a farm-related structure on land enrolled in the farm and open space  
21 tax program to be taxed at a current use value established by a method determined by the  
22 Department of Agriculture, Food and Rural Resources working with the Department of  
23 Administrative and Financial Services, Bureau of Revenue Services, representatives of  
24 municipal assessors and farmers.