

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1599

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H.P. 1102

House of Representatives, May 11, 2017

### An Act To Improve the Maine Tree Growth Tax Law

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STANLEY of Medway. (GOVERNOR'S BILL)

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

2 **Sec. 1. 36 MRSA §572, last ¶**, as enacted by PL 1971, c. 616, §8, is amended to  
3 read:

4 Therefore, this subchapter is enacted for the purpose of taxing forest lands generally  
5 suitable for the ~~planting~~ regeneration, culture, harvesting and continuous growth of forest  
6 products on the basis of their potential for annual wood production ~~in accordance with the~~  
7 ~~following provisions.~~

8 **Sec. 2. 36 MRSA §573, sub-§3-B**, as enacted by PL 1995, c. 236, §3, is amended  
9 to read:

10 **3-B. Forest products that have commercial value.** "Forest products that have  
11 commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood,  
12 poles, pilings, biomass, fuel wood, ~~Christmas trees, or maple syrup, nursery products~~  
13 ~~used for ornamental purposes, wreaths, bough material or cones or other seed products.~~

14 **Sec. 3. 36 MRSA §574-B, first ¶**, as amended by PL 2011, c. 618, §2, is further  
15 amended to read:

16 An owner of a parcel containing forest land may apply at the landowner's election by  
17 filing with the assessor the schedule provided for in section 579, ~~except that this.~~ This  
18 subchapter does not apply to any parcel containing less than 10 25 acres of forest land,  
19 except for a parcel containing at least 10 acres of forest land that was taxed pursuant to  
20 this subchapter prior to April 1, 2018. For purposes of this subchapter, a parcel is deemed  
21 to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad  
22 or pipeline, or by a municipal or county line. The election to apply requires the written  
23 consent of all owners of an interest in a parcel except for the State. For applications  
24 submitted on or after August 1, 2012, the size of the exclusion from classification under  
25 this subchapter for each structure located on the parcel and for each residential structure  
26 located on the parcel in shoreland areas is determined pursuant to section 574-C.

27 **Sec. 4. 36 MRSA §574-B, sub-§1**, as amended by PL 2009, c. 434, §15, is  
28 further amended to read:

29 **1. Forest management and harvest plan.** A forest management and harvest plan  
30 setting forth a description of the parcel and a schedule for the regeneration, culture,  
31 harvesting and continuous growth of forest products on the land must be prepared for  
32 each parcel and updated every 10 years. The landowner shall file a sworn statement with  
33 the municipal assessor for a parcel in a municipality or with the State Tax Assessor for a  
34 parcel in the unorganized territory that a forest management and harvest plan has been  
35 prepared for the parcel. When requested by the municipal assessor, the State Tax  
36 Assessor or the Department of Agriculture, Conservation and Forestry, Bureau of  
37 Forestry, the landowner shall provide a copy of the plan, and any plan that has expired  
38 within 2 years of the request, to facilitate review of and compliance with the plan;

39 **Sec. 5. 36 MRSA §574-B, sub-§2**, as amended by PL 2011, c. 618, §2, is further  
40 amended to read:

1           **2. Evidence of compliance with plan.** The landowner must comply with the plan  
2 developed under subsection 1, and must submit, every 10 years to the municipal assessor  
3 in a municipality or the State Tax Assessor for parcels in the unorganized territory, a  
4 sworn statement from a ~~licensed professional~~ forester licensed pursuant to Title 32,  
5 chapter 76 that the landowner is making a reasonable effort in managing the parcel  
6 according to schedules in the plan required under subsection 1;

7           **Sec. 6. 36 MRSA §575-A, sub-§3** is enacted to read:

8           **3. Review of forest management and harvest plan by Bureau of Forestry.** The  
9 Director of the Bureau of Forestry within the Department of Agriculture, Conservation  
10 and Forestry is authorized to review the forest management and harvest plan of any parcel  
11 enrolled under this subchapter for which there is no apparent evidence of timber  
12 harvesting on a reasonably sized portion of the parcel within the previous 20 years to  
13 determine whether the plan complies with this subchapter and whether the landowner is  
14 making a reasonable effort to manage the parcel according to the schedules and  
15 recommendations in that plan.

16           A. Consistent with the findings of the Tree Growth Tax Law Audit report from the  
17 bureau to the Committee on Taxation dated February 28, 2014, the director may limit  
18 reviews under this subsection to island, coastal and waterfront parcels where there is  
19 a large difference between the valuation under this subchapter and just value.

20           B. For the purposes of this subsection, the director must consider at least the  
21 following factors in determining whether the plan is in compliance:

22                   (1) Evidence of significant tree mortality and forest stand deterioration;

23                   (2) Evidence of timber harvesting on a reasonably sized portion of the parcel  
24 within the previous 20 years; and

25                   (3) Whether the plan recommends management activities within a reasonable  
26 time period based on visible evidence.

27           C. For the purposes of this subsection, the Director of the Bureau of Forestry or the  
28 director's designee may:

29                   (1) With appropriate notification to the landowner, enter and examine forest land  
30 for the purpose of determining compliance with the forest management and  
31 harvest plan pursuant to section 574-B;

32                   (2) Request and review a forest management and harvest plan required under  
33 section 574-B, which must be provided by a landowner or the landowner's agent  
34 upon request; and

35                   (3) Request and review an expired forest management and harvest plan, which  
36 must be provided by a landowner or the landowner's agent upon request.

37           D. If the Bureau of Forestry determines that a landowner is not in substantial  
38 compliance with this subchapter or that a parcel is not being managed in substantial  
39 compliance with a plan developed under subsection 1, the Bureau of Forestry shall  
40 provide notice of its determination to that landowner and notice that the landowner  
41 has 90 days to come into substantial compliance with this subchapter and one year to

1 bring the parcel into substantial compliance with the plan. If the landowner fails to  
2 come into substantial compliance by the end of the 90-day period or fails to bring the  
3 parcel into substantial compliance with the plan by the end of the one-year period, the  
4 Bureau of Forestry shall report the noncompliance to the assessor for that parcel who,  
5 pursuant to section 581, shall withdraw the land from taxation under this subchapter.

6 E. A landowner whose land is withdrawn from taxation under this subchapter  
7 pursuant to paragraph D may apply to reclassify the parcel as open space land; that  
8 application may not unreasonably be denied.

9 A forest management and harvest plan provided to the Director of the Bureau of Forestry  
10 or the director's designee under this subsection is confidential. Information collected  
11 pursuant to this subsection is confidential and is not a public record as defined in Title 1,  
12 section 402, subsection 3, except that the director may publish at least one summary  
13 report annually, which may not reveal the activities of any person and which must be  
14 available as a public record.

15 This subsection is repealed January 1, 2020.

16 **Sec. 7. 36 MRSA §578, sub-§1**, as amended by PL 2011, c. 404, §1, is further  
17 amended to read:

18 **1. Organized areas.** The municipal assessors or chief assessor of a primary  
19 assessing area shall adjust the State Tax Assessor's 100% valuation per acre for each  
20 forest type of their county by whatever ratio, or percentage of current just value, is  
21 applied to other property within the municipality to obtain the assessed values. Forest  
22 land in the organized areas, subject to taxation under this subchapter, must be taxed at the  
23 property tax rate applicable to other property in the municipality.

24 The State Tax Assessor shall determine annually the amount of acreage in each  
25 municipality that is classified and taxed in accordance with this subchapter. Each  
26 municipality is entitled to annual payments distributed in accordance with this section  
27 from money appropriated by the Legislature if it submits an annual return in accordance  
28 with section 383 and if it achieves the minimum assessment ratio established in section  
29 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory  
30 form by August 1st of the year following the submission of the annual return. The  
31 municipal reimbursement appropriation is calculated on the basis of 90% of the per acre  
32 tax revenue lost as a result of this subchapter. For property tax years based on the status  
33 of property on April 1, 2008 and April 1, 2009, municipal reimbursement under this  
34 section is further limited to the amount appropriated by the Legislature and distributed on  
35 a pro rata basis by the State Tax Assessor for all timely filed claims. For purposes of this  
36 section, "classified forest lands" means forest lands classified pursuant to this subchapter  
37 as well as all areas identified as forested land within farmland parcels that are transferred  
38 from tree growth classification pursuant to section 1112 on or after October 1, 2011. For  
39 the purposes of this section, the tax lost is the tax that would have been assessed, but for  
40 this subchapter, on the classified forest lands if they were assessed according to the  
41 undeveloped acreage valuations used in the state valuation then in effect, or according to  
42 the current local valuation on undeveloped acreage, whichever is less, minus the tax that  
43 was actually assessed on the same lands in accordance with this subchapter, and adjusted  
44 for the aggregate municipal savings in required educational costs attributable to reduced

1 state valuation. A municipality that fails to achieve the minimum assessment ratio  
2 established in section 327 loses 10% of the reimbursement provided by this section for  
3 each one percentage point the minimum assessment ratio falls below the ratio established  
4 in section 327. The State Tax Assessor may not make payment pursuant to this  
5 subchapter to a municipality in the year following notification by the Department of  
6 Agriculture, Conservation and Forestry, Bureau of Forestry that the municipality has  
7 failed to remove a parcel from enrollment under this subchapter pursuant to the  
8 requirements under section 575-A, subsection 3.

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

12 C. The State Tax Assessor shall distribute reimbursement under this section to each  
13 municipality in proportion to the product of the reduced tree growth valuation of the  
14 municipality multiplied by the property tax burden of the municipality. For purposes  
15 of this paragraph, unless the context otherwise indicates, the following terms have the  
16 following meanings.

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

21 (2) "Undeveloped land" means rear acreage and unimproved nonwaterfront  
22 acreage that is not:

23 (a) Classified under the laws governing current use valuation set forth in  
24 chapter 105, subchapter 2-A, 10 or 10-A;

25 (b) A base lot; or

26 (c) ~~Waste land~~ Wasteland.

27 (3) "Average value of undeveloped land" means the per acre undeveloped land  
28 valuations used in the state valuation then in effect, or according to the current  
29 local valuation on undeveloped land as determined for state valuation purposes,  
30 whichever is less.

31 (4) "Reduced tree growth valuation" means the difference between the average  
32 value of undeveloped land and the average value of tree growth land times the  
33 total number of acres classified as forest land under this subchapter plus the total  
34 number of acres of forest land that is transferred from tree growth classification  
35 to farmland classification pursuant to section 1112 on or after October 1, 2011.

36 **Sec. 8. 36 MRSA §581, sub-§2-A** is enacted to read:

37 **2-A. Parcels smaller than 25 acres.** A landowner of a parcel of land smaller than  
38 25 acres that was taxed pursuant to this subchapter for a property tax year beginning  
39 before April 1, 2018 may:

40 A. Keep that parcel classified pursuant to this subchapter;

41 B. Apply for classification of that parcel pursuant to section 1106-A; or

1           C. Notwithstanding subsection 3, withdraw that parcel from tree growth  
2 classification under this subchapter for the 2018 tax year. A landowner who elects to  
3 withdraw the parcel pursuant to this paragraph shall:

4           (1) Withdraw the entire parcel subject to tree growth classification in 2017 from  
5 classification under this subchapter for the 2018 tax year;

6           (2) Notify the assessor for that parcel before April 1, 2018 of the intent to  
7 withdraw the parcel; and

8           (3) Pay a penalty equal to the taxes that would have been assessed on the first  
9 day of April for the 5 tax years, or the number of tax years starting with the year  
10 in which the property was first classified, whichever is less, preceding the  
11 withdrawal had that parcel been assessed in each of those years at its fair market  
12 value on the date of withdrawal, less all taxes paid on that parcel over the  
13 preceding 5 years or the number of tax years starting with the year in which the  
14 property was first classified, whichever is less, and interest at the rate established  
15 pursuant to section 186 from the date or dates on which those amounts would  
16 have been payable.

17           **Sec. 9. 36 MRSA §581, sub-§7**, as repealed and replaced by PL 2007, c. 627,  
18 §16, is amended to read:

19           **7. Reclassification as farmland or open space land.** A penalty may not be  
20 assessed upon the withdrawal of land from taxation under this subchapter if the owner  
21 applies for classification of that land as farmland or open space land under subchapter 10  
22 and that application is accepted. An assessor may not unreasonably deny an application  
23 for reclassification. If a penalty is later assessed under section 1112, the period of time  
24 that the land was taxed as forest land under this subchapter is included for purposes of  
25 establishing the amount of the penalty.

26           **Sec. 10. 36 MRSA §581-A**, as amended by PL 2001, c. 305, §1 and affected by  
27 §2, is repealed and the following enacted in its place:

28           **§581-A. Sale or transfer of portion of parcel of forest land**

29           **1. Sales before April 1, 2018.** For sales occurring before April 1, 2018, the sale of a  
30 portion of a parcel of forest land subject to taxation under this subchapter does not affect  
31 the taxation under this subchapter of the resulting parcels, unless any is less than 10  
32 forested acres in area. Each resulting parcel must be taxed to the owners under this  
33 subchapter until the parcel is withdrawn from taxation under this subchapter, in which  
34 case the penalties provided for in sections 579 and 581 apply only to the owner of that  
35 parcel. If a parcel resulting from that sale is less than 10 forested acres in area, that parcel  
36 must be considered withdrawn from taxation under this subchapter as a result of the sale  
37 and the penalty must be assessed against the transferor of the resulting parcel of less than  
38 10 forested acres.

39           **2. Sales or transfers occurring on or after April 1, 2018.** For sales or other  
40 transfers occurring on or after April 1, 2018, the sale or transfer of a portion of a parcel of  
41 forest land subject to taxation under this subchapter does not affect the taxation under this

1 subchapter of the resulting parcels, unless any is less than 25 forested acres in area. Each  
2 resulting parcel must be taxed to the owners under this subchapter until the parcel is  
3 withdrawn from taxation under this subchapter, in which case the penalties provided for  
4 in sections 579 and 581 apply only to the owner of that parcel. If a parcel resulting from  
5 that sale or transfer is less than 25 forested acres in area, that parcel must be considered  
6 withdrawn from taxation under this subchapter as a result of the sale or transfer and the  
7 penalty must be assessed against the transferor of the resulting parcel of less than 25  
8 forested acres.

## 9 **SUMMARY**

10 This bill makes the following changes to the Maine Tree Growth Tax Law.

11 1. It includes harvesting as an expressly stated purpose for land in the Maine Tree  
12 Growth Tax Law program.

13 2. It removes certain items from the definition of forest products that have  
14 commercial value under the Maine Tree Growth Tax Law program.

15 3. It increases the minimum parcel size from 10 acres to 25 acres for the Maine Tree  
16 Growth Tax Law program for parcels enrolled on or after April 1, 2018.

17 4. It authorizes the Department of Agriculture, Conservation and Forestry, Bureau of  
18 Forestry to audit parcels of land enrolled in the Maine Tree Growth Tax Law program to  
19 ensure compliance of the landowner with the requirements of the program and that the  
20 parcel is being managed in substantial compliance with the forest management and  
21 harvest plan for that parcel. The bureau is required to order the removal from the program  
22 of any parcel that is not substantially compliant with the requirements of the program.  
23 The owner of that removed parcel may apply to reclassify the parcel under the farm and  
24 open space tax law in the Maine Revised Statutes, Title 36, chapter 105, subchapter 10.  
25 The audit provisions are repealed January 1, 2020.

26 5. It requires the State Tax Assessor to deny reimbursement to a municipality if any  
27 parcel of land enrolled in the Maine Tree Growth Tax Law program is not compliant with  
28 the program.