

MAINE STATE LEGISLATURE

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Report C

SMC

L.D. 1844

Date: 4/9/2018

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AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE

SENATE

128TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 698, L.D. 1844, Bill, "An Act To Provide the State the Right of First Refusal for the Purchase of Certain Land on Which a Subsidy Has Been Paid"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 36 MRSA §581-H is enacted to read:

§581-H. Right of first refusal

In accordance with this section, the State has a right of first refusal on the sale of significant forest land. The right of first refusal under this section is a right to purchase the significant forest land on the same terms and conditions as offered by a purchaser.

1. Purpose. It is the intent of the Legislature to further the purpose of this subchapter by acquiring, so far as is practicable and appropriate, significant forest land that is being sold, to ensure the protection of this economic and recreational state resource.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Department" means the Department of Agriculture, Conservation and Forestry.

B. "Purchaser" means a person that has offered to purchase significant forest land. "Purchaser" does not include the owner of the significant forest land's spouse, parent, grandparent, child, grandchild, sibling, half-sibling, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, the half-sibling of a person's spouse or the spouse of a person's half-sibling.

C. "Significant forest land" means forest land in this State held by any landowner other than the State, or any political subdivision of the State, that:

- (1) Exceeds 5,000 acres;

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1 (2) Is subject to taxation under this subchapter; and

2 (3) Is not owned by, or held in trust by the United States or by any other person
3 or entity for, any federally recognized Indian tribe in this State.

4 **3. Information regarding prospective sale.** An owner of significant forest land,
5 prior to accepting an offer from a purchaser to buy the significant forest land, shall supply
6 to the department on a form provided by the department information that identifies the
7 significant forest land, the terms and conditions of the proposed sale and other
8 information required by the department. The owner may not complete the sale until
9 receiving notice under subsection 4 that the State is not exercising the right of first
10 refusal.

11 **4. Notice; determination.** Upon receipt of information pursuant to subsection 3, the
12 department may notify the Governor and the Legislative Council of the information and
13 the amount of funds that would need to be made available to purchase the significant
14 forest land. If the department is provided adequate funding by the executive or legislative
15 branch to make the purchase within 10 business days of the receipt of the information, the
16 department shall exercise the right of first refusal. Within 10 business days of the receipt
17 of the information, the department shall notify the owner who provided the information
18 whether the State is exercising the right of first refusal.

19 **5. Terms of purchase.** If the State exercises a right of first refusal under this
20 section, the State shall purchase the significant forest land on the same terms and
21 conditions as offered by the purchaser as long as the sale is at a price that is no less than
22 the price provided in the information provided under subsection 3. If the price is
23 decreased, the owner must again provide information in accordance with subsection 3.

24 **6. Designation as nonreserved public land; classification and management.**
25 Property purchased by the State pursuant to this section is nonreserved public land
26 subject to the requirements of Title 12, chapter 220, subchapter 3. Notwithstanding any
27 provision of law to the contrary, purchase of the property by the State under this section
28 does not change its classification under this subchapter. The Bureau of Parks and Lands
29 within the department shall manage the property in accordance with this subchapter and,
30 using funds appropriated for that purpose by the Legislature, shall make payments in lieu
31 of taxes in an amount equal to the amount that would be paid by a private landowner to
32 the assessor.

33 **7. Sale of property to other purchaser.** If the department does not exercise the
34 State's right of first refusal to purchase the significant forest land within 10 business days
35 of the receipt of the information pursuant to subsection 3, the owner may sell the
36 significant forest land to any purchaser.

37 **8. Rules.** The department shall adopt rules necessary to carry out this section. Rules
38 adopted pursuant to this subsection are major substantive rules as defined in Title 5,
39 chapter 375, subchapter 2-A.'

40 **SUMMARY**

41 This amendment, which is the minority report of the committee, replaces the bill.
42 The amendment establishes the State's right of first refusal regarding property that is

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1 more than 5,000 acres, subject to the Maine Tree Growth Tax Law program and not
2 owned by or held in trust for a federally recognized Indian tribe in this State. The right of
3 first refusal does not apply if the purchaser is an immediate family member. An owner
4 who receives an offer must notify the Department of Agriculture, Conservation and
5 Forestry of the proposed sale and provide information including the terms and conditions
6 of the sale. The department may notify the Governor and the Legislative Council. The
7 department has 10 business days to obtain funds to make the purchase. If the State
8 exercises its right of first refusal, the property is nonreserved public land subject to the
9 requirements of the Maine Revised Statutes, Title 12, chapter 220, subchapter 3 and does
10 not change its classification under the Maine Tree Growth Tax Law. The Bureau of
11 Parks and Lands within the department must manage the property in accordance with the
12 Maine Tree Growth Tax Law and, using funds appropriated for that purpose by the
13 Legislature, must make payments in lieu of taxes in an amount equal to the amount that
14 would be paid by a private landowner to the assessing authority. If the State does not
15 exercise its right of first refusal, the owner may sell the property to any purchaser but at
16 no less than the price provided to the department pursuant to Title 36, section 581-H,
17 subsection 3; if owner decreases the price, the owner must resubmit the information in
18 accordance with subsection 3. The department is required to adopt major substantive
19 rules to implement these provisions.

FISCAL NOTE REQUIRED
(See attached)

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128th MAINE LEGISLATURE

LD 1844

LR 2867(03)

An Act To Provide the State the Right of First Refusal for the Purchase of Certain Land on Which a Subsidy Has Been Paid

Fiscal Note for Bill as Amended by Committee Amendment "B" (S-448)

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

Contingent current biennium cost increase - General Fund
Contingent current biennium cost increase - Other Special Revenue Funds
Contingent current biennium revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This bill establishes the State's right of first refusal over property offered for sale that is over 5,000 acres and that is subject to the Maine Tree Growth Tax Law program. Any land purchases under this bill will require additional appropriations to the Department of Agriculture, Conservation and Forestry (ACF). As this bill does not require the ACF to act on any options to purchase land, no appropriation is required at this time and no costs are incurred.

If the State chooses to execute a right of first refusal, the lands acquired would be classified as public nonreserved land managed by ACF. As public nonreserved lands, ACF is permitted to sell the resources present on those lands or in certain situations assess user fees for access to the land. Under current law, 25% of revenue generated from public nonreserved land is returned to the municipality in which the land is located. This bill requires that ACF also make payments in lieu of taxes in an amount equal to what a private landowner would have paid to the assessing authority. The State does not currently make such payments to municipalities for public nonreserved lands. These payments would require ongoing General Fund appropriations.