

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
Lewiston, Maine  
1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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Sec. 2. 7 MRSA §975 is enacted to read:

§975. Grants

All or any portion of the interest earned or accruing on the cash balance of the Potato Marketing Improvement Fund may be used for grants to individuals, firms, corporations or other organizations for any of the following purposes:

1. Partial cost of project. To pay an amount not to exceed 50% of the total cost of any project. The purpose of any project shall be to provide equipment and facilities for washing and otherwise preparing potatoes for packing, such equipment and facilities including, but not limited to, wells, pressure pumps, plumbing and necessary auxiliary equipment. The total amount granted under this subsection for any single year shall not exceed 25% of the aggregate interest earned and attributable to funds from the issuance of state bonds;

2. Research projects. To partially or fully fund specific research projects, the purpose of which is to study and assess technical problems experienced with new and retrofitted storage facilities, and to develop means of dealing with such problems, or to examine, monitor and develop new technologies for the storage and handling of potatoes; and

3. Use and disposal of cull potatoes. To conduct a research program to explore and establish productive uses of cull potatoes, to conduct feasibility studies appropriate to such uses and to conduct research pertaining to the safe and effective disposal of culls not used for productive purposes.

The commissioner, by rule, promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall establish criteria for the allocation of grants.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1988-89

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Potato Marketing Improvement Fund

All Other \$300,000

Allocates funds earned as interest on the cash balance of the Potato Marketing Improvement Fund to be used as specified grants to farmers.

Sec. 4. Sunset. This Act is repealed April 15, 1991.

Effective August 4, 1988.

CHAPTER 728

H.P. 1690 — L.D. 2319

AN ACT to Amend the Farm and Open Space Tax Law.

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

Sec. 1. 36 MRSA §1102, sub-§4, as enacted by PL 1975, c. 726, §2, is amended to read:

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland of at least 10 5 contiguous acres on which farming or agricultural activities have produced a gross income of at least \$2,000 per year in one of the 2 or 3 of the 5 calendar years preceding the date of application for classification of at least:

A. \$1,000 for 10 acres; and

B. \$100 per acre for each acre over 10, with the total income required not to exceed \$2,000.

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

Sec. 2. 36 MRSA §1102, sub-§5-A is enacted to read:

5-A. Horticultural land. "Horticultural land" means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.

Sec. 3. 36 MRSA §1103, as amended by PL 1977, c. 467, §2, is further amended to read:

§1103. Owner's application

An owner of farmland or open space land may apply for taxation under this subchapter for the calendar year ~~1978~~ 1989, and for subsequent calendar years, at his election by filing with the assessor the schedule provided for in section 1109. The election to apply shall require the unanimous consent of all owners of an interest in that farmland or open space land.

Sec. 4. 36 MRSA §1105, as repealed and replaced by PL 1977, c. 467, §3, is repealed and the following enacted in its place:

§1105. Valuation of farmland and open space land

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the 100% valuation per acre based on the current use value of farmland used for agricultural or horticultural pur-

poses and open space land used for open space purposes. The values established shall be based on such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography and other relevant considerations. These values shall not reflect development or market value purposes other than agricultural, horticultural or open space use. The values shall not reflect value attributable to road frontage or shore frontage. In developing these values, local assessors may be guided by the Department of Agriculture, Food and Rural Resources as provided in section 1119.

The 100% valuations per acre for farm and open space woodland within a parcel classified under this subchapter shall be the 100% valuation per acre for each forest type established for each county pursuant to subchapter II-A. Areas other than woodland, agricultural land, horticultural land or open space located within any parcel of farmland or open space classified under this subchapter shall be valued on the basis of just value.

Sec. 5. 36 MRS A §1108, as amended by PL 1979, c. 666, §23, is further amended to read:

§1108. Assessment of tax

1. Organized areas. The municipal assessors shall adjust the 100% valuations per acre for farmland for their jurisdiction by whatever ratio; or percentage of current just value, is then being applied to other property within the municipality to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and shall not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the organized areas subject to taxation under this subchapter shall be taxed at the property tax rate applicable to other property in the municipality, which rate shall be applied to the assessed values so determined.

2. Unorganized territory. The State Tax Assessor shall adjust the 100% valuations per acre for farmland for the unorganized territory by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and shall not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the unorganized territory subject to taxation under this subchapter shall be taxed at the state property tax rate applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined.

Sec. 6. 36 MRS A §1109, sub-§1, as amended by PL 1981, c. 698, §181, is further amended to read:

1. Schedule. The owner or owners of farmland sub-

ject to taxation under this subchapter shall submit a signed schedule in duplicate, on or before April 1st of the year in which the owner or owners wish to first subject such land to taxation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor identifying the land to be taxed hereunder, listing the number of acres of each farmland classification, showing the location of the land in each classification and representing that the land is farmland within the meaning of section 1102, subsection 4. In determining whether such land is farmland, there shall be taken into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith and the extent to which the tracts comprising such land are contiguous. If the assessor finds that the land meets the requirements of section 1102, subsection 4, the assessor shall classify it as farmland, apply the appropriate 100% valuations per acre for farmland and it shall be subject to taxation under this subchapter.

The assessor shall record, in the municipal office of the town in which the farmland is located, the value of the farmland as established under this subchapter and the value at which the farmland would have been assessed had it not been classified under this subchapter.

Sec. 7. 36 MRS A §1109, sub-§2, as amended by PL 1977, c. 509, §26, is further amended to read:

2. Provisional classification. The owner of a parcel of land, including woodland and wasteland of at least 1/5 contiguous acres on which farming or agricultural activities have not produced the gross income required in section 1102, subsection 4, per year for one of the 2 or 3 of the 5 preceding calendar years, may apply for a 2-year provisional classification as farmland by submitting a signed schedule in duplicate, on or before April 1st of the year for which provisional classification is requested, identifying the land to be taxed hereunder, listing the number of acres of each farmland classification, showing the location of the land in each classification and representing that the applicant intends to conduct farming or agricultural activities upon that parcel. Upon receipt of the schedule, the land shall be provisionally classified as farmland and subjected to taxation under this subchapter. If, at the end of the 2-year period, the land does not qualify as farmland under section 1102, subsection 4, the owner shall pay a penalty which shall be an amount equal to the taxes which would have been assessed had the property been assessed at its fair market value on the first day of April for the 2 preceding tax years less the taxes paid on the property over the 2 preceding years and interest at the legal rate from the dates on which those amounts would have been payable.

Sec. 8. 36 MRS A §1109, sub-§4, as amended by PL 1977, c. 509, §27, is further amended to read:

4. Investigation. The assessor shall notify the land-

owner of his determination as to the applicability of this subchapter by June 1st following receipt of a signed schedule meeting the requirements of this section. ~~If such notification is not given, except for an application for provisional classification as farmland, the assessor shall be deemed to have denied taxation hereunder at that time unless the land was taxed under this subchapter in the preceding year, in which case the assessor shall be deemed to have permitted taxation hereunder. The assessor shall notify the landowner that the application has been accepted or denied. If the application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of this chapter.~~

The assessor or the assessor's duly authorized representative may enter and examine the lands under this subchapter for tax purposes and may examine into any information submitted by the owner or owners.

Upon notice in writing by certified mail, return receipt requested, any owner or owners shall be required, within 60 days of the receipt of such notice, to respond to such written questions or interrogatories as the assessor may deem necessary to obtain material information about those lands. ~~Should If the assessor determine determines that he cannot reasonably obtain the required material information regarding those lands through such written questions or interrogatories, the assessor may require any owner or owners, upon notice in writing by certified mail, return receipt requested, or by such other method as provides actual notice, to appear before the assessor at such reasonable time and place as the assessor may designate and answer such questions or interrogatories as the assessor may deem necessary to obtain material information about those lands.~~

Sec. 9. 36 MRSA §1112, as amended by PL 1983, c. 400, §§2 and 3, is repealed and the following enacted in its place:

#### §1112. Recapture penalty

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

For land classified under this subchapter for less than 5 full years, the penalty shall be equal to 40% of its assessed fair market value at the time the land is removed from the program. For land that has been classified under this subchapter for more than 5 full years but less than 10 full years, the penalty shall be full recapture of the taxes that would have been paid on the land for all the years it was in the program, less all taxes that were paid during those years and interest at the rate set by

the town during those years on delinquent taxes. For land that has been classified under this subchapter for more than 10 full years, the penalty shall be the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes.

No penalty may be assessed at the time of a change of use from one classification of land subject to taxation under this subchapter to another classification of land subject to taxation under this subchapter nor may any penalty be assessed upon the withdrawal of land from taxation under this subchapter if the owner applies for and is accepted for classification as timberland under subchapter II-A, provided that in the event a penalty is later assessed under subchapter II-A the period of time that the land was taxed as farmland or open space land under this subchapter shall be included for purposes of establishing the amount of the penalty.

If land is withdrawn from classification under this subchapter, any penalty assessed may be considered for abatement pursuant to the procedures incorporated in subchapter VIII.

Sec. 10. 36 MRSA §§1119, 1120 and 1121 are enacted to read:

#### §1119. Valuation guidelines

By January 1, 1989, the Department of Agriculture, Food and Rural Resources working with the Bureau of Taxation, representatives of municipal assessors and farmers shall prepare guidelines to assist local assessors in the valuation of farmland. The department shall also deliver these guidelines in training sessions for local assessors throughout the State. These guidelines shall include suggested values for cropland, orchard land, pastureland and horticultural land.

#### §1120. Program promotion

The Department of Agriculture, Food and Rural Resources shall undertake an informational program designed to educate Maine citizens as to the existence of the farm and open space tax laws, which shall include, but not be limited to, informing local farm organizations and associations of tax assessors about the law.

By January 1, 1989, the Department of Agriculture, Food and Rural Resources and the Bureau of Taxation shall produce written materials designed to inform municipal assessors, farmers and Maine citizens about the farm and open space tax program. These materials shall be in a form that is attractive, easily understandable and designed to interest the public in the program. The department and the bureau shall ensure that these written materials are made available and distributed as widely as possible throughout the State.

## §1121. Program monitoring

By January 1, 1989, and every 2 years thereafter, the Department of Agriculture, Food and Rural Resources and the Bureau of Taxation shall review the level of participation in the farm and open space tax program, the taxes saved due to that participation, the fiscal impact, if any, on municipalities, including the impact of any penalties assessed under section 1112 and the effectiveness of the program in preserving farmland and open space. The department and the bureau shall report to the joint standing committee of the Legislature having jurisdiction over taxation within 6 months after completion of the review on the status of the program. The department and the bureau shall identify problems that prevent realization of the purposes of this subchapter and potential solutions to remedy those problems.

Effective August 4, 1988.

## CHAPTER 729

H.P. 1736 — L.D. 2381

## AN ACT Relating to Prison Furloughs.

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

Sec. 1. 34-A MRSA §3035, sub-§2, as enacted by PL 1983, c. 459, §6, is amended to read:

2. Furlough. The Subject to subsection 5, the commissioner may grant to a committed offender furlough from the facility in which he is confined under the following conditions.

A. Furlough may only be granted subject to rules adopted by the commissioner.

B. Furlough may be granted for not more than 10 days at one time for a visit to a dying relative, for attendance at the funeral of a relative, for the contacting of prospective employers or for any other reason consistent with the rehabilitation of a committed offender.

C. Furlough may be granted for the obtaining of medical services for a period longer than 10 days if medically required.

Sec. 2. 34-A MRSA §3035, sub-§5 is enacted to read:

5. Time served before furlough. No furlough may be granted until the offender has served 50% of the original sentence imposed, after consideration of any good time that the offender has received and retained under Title 17-A, section 1253. This section does not apply to furloughs granted under subsection 2, paragraph B or C.

Sec. 3. Application. This Act applies only to per-

sons convicted and sentenced after the effective date of this Act.

Effective August 4, 1988.

## CHAPTER 730

H.P. 1869 — L.D. 2558

## AN ACT to Ensure that a Certain Percentage of Public Housing is Handicapped Accessible.

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

Sec. 1. 5 MRSA §4582, as amended by PL 1985, c. 638, §1, is further amended by adding at the end a new paragraph to read:

With respect to any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units for which construction is begun after October 1, 1988, no less than 10% of the ground level units and a minimum of 10% of the upper story units connected by an elevator shall be accessible to and useable by physically handicapped persons. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1986 standards set forth by the American National Standards Institute in the publication, "Specifications for Making Buildings Accessible to and Useable by Physically Handicapped People," ANSI A 117.1-1986. A remodeled, renovated or enlarged housing unit where the remodeling, renovating or enlarging is begun after October 1, 1988, is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1986 American National Standards Institute standards: 4.3 accessible routes; 4.23 doors; 4.34.5 adaptable bathrooms; and 4.29.3 tactile warnings on doors to hazardous areas.

Sec. 2. 22 MRSA §3-C is enacted to read:

## §3-C. Clearinghouse of information on handicapped housing accessibility

The commissioner shall establish a central clearinghouse of information concerning housing available throughout the State that is accessible in whole or in part to handicapped people. The clearinghouse of information shall also provide information to the general public and building construction contractors with respect to handicapped accessible housing standards and costs, location of need for handicapped housing, the type of handicapped housing for which there is demand and any other information deemed by the commissioner to be useful or necessary.

Sec. 3. 25 MRSA §2702-A, sub-§3 is enacted to read: