

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

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

Penmor Lithographers

Lewiston, Maine

2006

notice that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer is entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

Sec. 3. Application. This Act applies to taxes assessed based on the status of property on or after April 1, 2006.

See title page for effective date.

CHAPTER 608

S.P. 678 - L.D. 1761

An Act To Offer Financial Institutions an Option for Payment of the Maine Franchise Tax

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

Sec. 1. 36 MRSA §5206, as amended by PL 1997, c. 746, §14 and affected by §24, is repealed and the following enacted in its place:

§5206. Franchise tax on financial institutions

A tax is imposed for each calendar year or fiscal year ending during that calendar year upon the franchise or privilege of doing business in this State of every financial institution that has Maine net income or Maine assets and that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. A financial institution is subject to tax under this section even if it is treated as a partnership, S corporation or entity disregarded as separate from its owner for federal income tax purposes under the Code. Each financial institution shall determine the tax due using one of the following methods:

1. Franchise tax on Maine net income and Maine assets. The sum of:

A. One percent of the financial institution's Maine net income; and

B. Eight cents per \$1,000 of the financial institution's Maine assets; or

2. Franchise tax on Maine assets only. Thirty-nine cents per \$1,000 of the financial institution's Maine assets.

Each financial institution subject to the tax under this chapter shall elect to calculate and pay tax under the method in subsection 1 or 2. The financial

institution shall make the election on its annual state tax return and the election cannot be revoked with respect to that tax year. If a financial institution fails to make an election, the method established in subsection 1 must be used and is deemed an election for purposes of this section.

In each taxable year in which a financial institution sustains a book net operating loss, a credit must be allowed against the franchise tax on assets under subsection 1. The credit must be computed by multiplying the book net operating loss by the applicable franchise tax rate imposed by subsection 1, paragraph A. The total amount of any credit allowed may not exceed the franchise tax on assets due under subsection 1, paragraph B. In any tax year in which there is excess credit, the excess credit must be carried forward for no more than the next 5 tax years and may be applied against the tax computed under subsection 1.

Sec. 2. 36 MRSA §5206-E, first ¶, as enacted by PL 1997, c. 404, §5 and affected by §10, is amended to read:

Except as otherwise specifically provided, a financial institution that is taxable both in and outside this State shall apportion its net income and end-of-year assets as provided in this section. A financial institution is considered taxable in a state if in that state the financial institution is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax or that state has jurisdiction to subject the financial institution to a net income tax regardless of whether, in fact, the state does or does not tax the financial institution.

Sec. 3. 36 MRSA §5206-E, sub-§1, as amended by PL 1997, c. 746, §18 and affected by §24, is further amended to read:

1. Formula applicable. All of a financial institution's ~~Maine~~ net income is and end-of-year assets are apportioned to this State by multiplying the income and the assets by a fraction, the numerator of which is the property factor plus the payroll factor plus 2 times the receipts factor and the denominator of which is 4.

Sec. 4. 36 MRSA §5206-E, sub-§5, ¶D, as enacted by PL 1997, c. 404, §5 and affected by §10, is amended to read:

D. The employment of any other method to effectuate an equitable apportionment of the taxpayer's income or assets.

Sec. 5. Application. This Act applies to tax years beginning on or after January 1, 2006.

See title page for effective date.

CHAPTER 609

S.P. 759 - L.D. 1972

An Act To Preserve Maine's Working Waterfront

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

Sec. 1. 36 MRSA §271, sub-§2, ¶A, as amended by PL 1993, c. 664, §12, is further amended to read:

A. Hear and determine appeals according to the following provisions of law:

- (1) The tree growth tax law, chapter 105, subchapter ~~H-A~~ 2-A;
- (2) The farm and open space law, chapter 105, subchapter ~~X~~ 10;
- (3) As provided in section 843;
- (4) As provided in section 844;
- (5) Section 272; ~~and~~
- (6) Section 2865; ~~and~~
- (7) The current use valuation of certain working waterfront land law, chapter 105, subchapter 11;

Sec. 2. 36 MRSA c. 105, sub-c. 11 is enacted to read:

SUBCHAPTER 11

CURRENT USE VALUATION OF CERTAIN WORKING WATERFRONT LAND

§1141. Purpose

It is declared that it is in the public interest to encourage the preservation of working waterfront land and to prevent the conversion of working waterfront land to other uses as the result of economic pressures caused by the assessment of that land, for purposes of property taxation, at values incompatible with its use as working waterfront land and that the necessity in the public interest of the enactment of this subchapter in accordance with the Constitution of Maine, Article IX, Section 8 is a matter of legislative determination.

§1142. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commercial aquaculture production. "Commercial aquaculture production" has the same meaning as in section 2013, subsection 1, paragraph A-1.

2. Commercial fishing. "Commercial fishing" means harvesting or processing, or both, of wild marine organisms with the intent of disposing of them for profit or trade in commercial channels.

3. Commercial fishing activities. "Commercial fishing activities" means commercial aquaculture production and commercial fishing. "Commercial fishing activities" does not include retail sale to the general public of marine organisms or their byproducts, or other products or byproducts of commercial aquaculture production or commercial fishing.

4. Excess valuation factor. "Excess valuation factor" means a market-based influence on the determination of the just value of working waterfront land that would result in a valuation that is in excess of that land's current use value. "Excess valuation factor" includes, but is not limited to, aesthetic factors, recreational water-use factors, residential housing factors and nonresidential development factors unrelated to working waterfront uses.

5. Head of tide. "Head of tide" means the inland or upstream limit of water affected by the tide.

6. Intertidal zone. "Intertidal zone" means all land affected by the tides between the mean high-water mark and the mean low-water mark.

7. Marine organism. "Marine organism" means an animal or plant that inhabits intertidal zones or waters below head of tide.

8. Support the conduct of commercial fishing activities. "Support the conduct of commercial fishing activities" means:

A. To provide access to the water or the intertidal zone over waterfront property to persons directly engaged in commercial fishing activities;
or

B. To conduct commercial business activities that provide goods or services that directly support commercial fishing activities.

9. Used predominantly. "Used predominantly" means used more than 90% for commercial fishing activity, allowing for limited uses for noncommercial