

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

riod beginning on or after January 1, 2005 but less than a 24-year period beginning on or after January 1, 2005, 14/15 of the gain recognized on the sale of the eligible timberlands; or

(o) For eligible timberlands held by the taxpayer for at least a 24-year period beginning on or after January 1, 2005, all of the gain recognized on the sale of the eligible timberlands.

(3) Taxpayers claiming this credit must attach a sworn statement from a forester licensed pursuant to Title 32, chapter 76 that the timberlands for which the credit is claimed have been managed sustainably. For the purposes of this subparagraph, "sustainably" means that the timberlands for which the credit is claimed have been managed to protect soil productivity and to maintain or improve stand productivity and timber quality; known occurrences of threatened or endangered species and rare or exemplary natural communities; significant wildlife habitat and essential wildlife habitat; and water quality, wetlands and riparian zones.

Upon request of the State Tax Assessor, the Director of the Bureau of Forestry within the Department of Conservation may provide assistance in determining whether timberlands for which the credit is claimed have been managed sustainably. When assistance is requested under this subparagraph, the director or the director's designee may enter and examine the timberlands for the purpose of determining whether the timberlands have been managed sustainably.

In the case of timberlands owned by an entity that is treated as a pass-through entity for income tax purposes, the land must be treated as eligible timberland if ownership and use of the land by the pass-through entity satisfies the requirements of this paragraph. If the owner of the eligible timberlands is an S corporation, the taxpayer must subtract the owner's pro rata share of the gain. If the owner of the timberlands is a partnership or limited liability company taxed as a partnership, the taxpayer must subtract the taxpayer's distributive share of the gain, subject to the percentage limitations provided in this paragraph.

This modification may not reduce Maine taxable income to less than zero. To the extent this modification results in Maine taxable income

that is less than zero for the taxable year, the excess negative modification amount may be carried forward and applied as a subtraction modification for up to 10 taxable years. The entire amount of the excess negative modification must be carried to the earliest of the taxable years to which, by reason of this subsection, the negative modification may be carried and then to each of the other taxable years to the extent the unused negative modification is not used for a prior taxable year. Earlier carry-forward modifications must be used before newer modifications generated in later years; and

Sec. 10. 36 MRSA §5200-A, sub-§2, ¶Q is enacted to read:

Q. For income tax years beginning on or after January 1, 2006, to the extent included in federal taxable income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA.

Sec. 11. Appropriations and allocations.

The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF**

Maine Revenue Services 0002

Initiative: Provides funds for the computer programming costs associated with the income tax exemption for capital gains and depreciation recapture related to the transfer of certain affordable housing property.

GENERAL FUND	2005-06	2006-07
All Other	\$0	\$20,000
GENERAL FUND TOTAL	\$0	\$20,000

See title page for effective date.

CHAPTER 645

S.P. 258 - L.D. 791

**An Act Concerning the Taxation of
Property Owned by Certain
Veterans' Organizations**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional

expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 36 MRSA §652, sub-§1, ¶E, as amended by PL 1979, c. 467, §4, is further amended to read:

E. The real estate and personal property owned ~~and~~ occupied and used for their own purposes by posts of the American Legion, Veterans of Foreign Wars, American Veterans of World War II, Grand Army of the Republic, Sons of Union Veterans of the Civil War, Spanish War Veterans, Disabled American Veterans and Navy Clubs of the U.S.A., ~~which shall be that~~ are used solely by those organizations for meetings, ceremonies or instruction or to further the charitable activities of the organization, including all facilities appurtenant to such use and used in connection therewith. ~~If any building shall not be used in its entirety for those purposes, but shall be used in part for those purposes and in part for any other purpose, exemption shall only be of the part used for those purposes. If an organization is not the sole occupant of the property, the exemption granted under this paragraph applies only to that portion of the property owned, occupied and used by the organization for its purposes.~~

Further conditions to the right of exemption are that:

- (1) ~~No~~ A director, trustee, officer or employee of any organization claiming exemption ~~shall~~ may not receive directly or indirectly any pecuniary profit from the operation thereof, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;
- (2) All profits derived from the operation thereof and the proceeds from the sale of its property are devoted exclusively to the purposes for which it is organized; and
- (3) The institution, organization or corporation claiming exemption under this subsection shall file with the tax assessors upon their request a report for its preceding fiscal

year in such detail as the tax assessors may reasonably require.

See title page for effective date.

CHAPTER 646

S.P. 477 - L.D. 1379

An Act To Amend the Maine Wind Energy Act

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

Sec. 1. 30-A MRSA §5223, sub-§3, as amended by PL 2003, c. 451, Pt. NNN, §1, is further amended by amending the last blocked paragraph to read:

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts ~~or~~ tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 or tax increment financing districts that consist solely of a community wind power generator or generators certified pursuant to Title 36, section 5219-AA, subsection 3.

Sec. 2. 35-A MRSA §3210, sub-§8 is enacted to read:

8. Credit trading. The commission shall allow competitive electricity providers to satisfy the portfolio requirements of subsection 3 through the use of renewable energy credits if the commission determines that a reliable system of electrical attribute trading exists.

Sec. 3. 35-A MRSA §3402, as enacted by PL 2003, c. 665, §3, is amended to read:

§3402. Legislative findings

The Legislature finds that it is in the public interest to explore opportunities for and encourage the development, where appropriate, of wind energy production in the State in a manner that is consistent with ~~high~~ all state and federal environmental standards and that achieves reliable, cost-effective, sustainable energy production on those sites in the State that will attract investment and permit the development of viable wind energy projects. The Legislature finds that the development of the wind energy potential in the State needs to be integrated into the existing energy supply and transmission systems in a way that achieves system reliability, total capital cost-effectiveness and optimum short-term and long-term benefits to Maine people. The Legislature finds it is in the public interest to encourage the construction and operation of