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No. 507

H.P. 400

House of Representatives, February 14, 2011

**An Act To More Closely Coordinate the Classification of Forested
Farmland under the Farm and Open Space Tax Laws with the
Maine Tree Growth Tax Law**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CURTIS of Madison.
Cosponsored by Senator WHITTEMORE of Somerset and
Representatives: CUSHING of Hampden, FITTS of Pittsfield.

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

2 **Sec. 1. 36 MRSA §578, sub-§1**, as amended by PL 2009, c. 213, Pt. O, §1, is
3 further amended to read:

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

10 The State Tax Assessor shall determine annually the amount of acreage in each
11 municipality that is classified and taxed in accordance with this subchapter. Each
12 municipality is entitled to annual payments distributed in accordance with this section
13 from money appropriated by the Legislature if it submits an annual return in accordance
14 with section 383 and if it achieves the minimum assessment ratio established in section
15 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory
16 form by August 1st of the year following the submission of the annual return. The
17 municipal reimbursement appropriation is calculated on the basis of 90% of the per acre
18 tax revenue lost as a result of this subchapter. For property tax years based on the status
19 of property on April 1, 2008 and April 1, 2009, municipal reimbursement under this
20 section is further limited to the amount appropriated by the Legislature and distributed on
21 a pro rata basis by the State Tax Assessor for all timely filed claims. For purposes of this
22 section, classified forest lands are forest lands classified pursuant to this subchapter as
23 well as all areas identified as forested land within farmland parcels that are transferred
24 from tree growth classification pursuant to section 1112 on or after October 1, 2011. For
25 the purposes of this section, the tax lost is the tax that would have been assessed, but for
26 this subchapter, on the classified forest lands if they were assessed according to the
27 undeveloped acreage valuations used in the state valuation then in effect, or according to
28 the current local valuation on undeveloped acreage, whichever is less, minus the tax that
29 was actually assessed on the same lands in accordance with this subchapter, and adjusted
30 for the aggregate municipal savings in required educational costs attributable to reduced
31 state valuation. A municipality that fails to achieve the minimum assessment ratio
32 established in section 327 loses 10% of the reimbursement provided by this section for
33 each one percentage point the minimum assessment ratio falls below the ratio established
34 in section 327.

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

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

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

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

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

9 (b) A base lot; or

10 (c) Waste land.

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

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

20 **Sec. 2. 36 MRSA §1112, 3rd ¶**, as amended by PL 1989, c. 555, §19 and c. 748,
21 §6, is further amended to read:

22 A penalty may not be assessed at the time of a change of use from the farmland
23 classification of land subject to taxation under this subchapter to the open space
24 classification of land subject to taxation under this subchapter. A penalty may not be
25 assessed upon the withdrawal of open space land from taxation under this subchapter if
26 the owner applies for the land to be classified as and the land is accepted for classification
27 as timberland under subchapter ~~II-A~~ 2-A. There also is no penalty imposed when land
28 classified as timberland is accepted for classification as open space land. A penalty may
29 not be assessed upon withdrawal of open space land from taxation under this subchapter;
30 ~~or from timberland taxation under subchapter II-A~~; if the owner applies for the land to be
31 classified as and the land is accepted for classification as farmland under this subchapter.
32 A penalty may not be assessed upon withdrawal of land enrolled under the Maine Tree
33 Growth Tax Law if the owner applies for the land to be classified as and the land is
34 accepted for classification as farmland under this chapter, except that on or after October
35 1, 2011 the applicant for such a transfer, and any subsequent owner of the property while
36 so enrolled, must conform to the forest management and harvest plan requirements
37 pursuant to section 574-B with respect to all forested land on that farmland parcel. The
38 recapture penalty for withdrawal from farmland classification within 10 years of a
39 transfer from either open space tax classification or timberland tax classification is the
40 same imposed on withdrawal from the prior tax classification, open space or tree growth.
41 The recapture penalty for withdrawal from farmland classification more than 10 years
42 after such a transfer will be the regular farmland recapture penalty provided for in this
43 section. In the event a penalty is later assessed under subchapter ~~II-A~~ 2-A, the period of

1 time that the land was taxed as farmland or as open space land under this subchapter must
2 be included for purposes of establishing the amount of the penalty.

3

SUMMARY

4 Under current law, a person may transfer property enrolled under the Maine Tree
5 Growth Tax Law into the farm and open space tax program without penalty, and the
6 forested acreage included in that transferred parcel is treated for all taxation purposes as
7 though it were still under the Maine Tree Growth Tax Law. The affected municipality,
8 however, loses the tree growth reimbursement it was receiving from the State that was
9 associated with the forested acreage, and the landowner is under no obligation to provide
10 a forest management and harvest plan with respect to the forested land included within
11 the transferred parcel. This bill provides that with respect to all such transfers occurring
12 after October 1, 2011 the municipality will still receive tree growth reimbursement for
13 that forested property even after a transfer, and the landowner must continue to comply
14 with the forest management plan requirements associated with the forested land being
15 transferred.