

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

Sec. 1. 36 MRSA c. 105, sub-c. 11 is enacted to read:

SUBCHAPTER 11

HOMESTEAD AND BUSINESS LAND USE TAX LAW

§1131. Program established; definitions

1. Program established. The Maine Land Bank and Community Preservation Program is established to encourage the preservation of homestead lands and lands used for the generation of income by a business venture as a sole proprietorship, partnership, or a corporation in order to provide for the welfare and happiness of the inhabitants of the State and provide for affordable housing to prevent the forced conversion of homestead land and land used for the generation of income to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such homestead land and lands used for the generation of income by a business venture

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

- A. "Direct relative" means parent, aunt, uncle, sibling, first cousin, niece, nephew or grandchild, by birth or adoption.
- B. "Program" means the Maine Land Bank and Community Preservation Program established in this subsection.
- C. "Classified land" means land for which an application under section 1132 has been accepted or for which classification has been certified. "Classified land" does not include any building or structure on the land or any other thing affixed to the land that would be considered real estate under section 551. "Classified land" may include all or a defined portion of a given parcel of land.
- D. "Qualifying land" means any land owned by Maine resident(s), subject to taxation, in the following mutually exclusive categories:

Category 1: Homestead Land (residential)

Category 2: Endangered business lands

- a. Working waterfront lands
- b. Farm land
- c. Timber lands

Category 3: Other business lands

Category 4: Land which does not qualify for any of the first three categories

E. "Fair market value" means the assessed value of comparable non-classified land in the municipality or unorganized territory, as applicable.

F. "Commercial properties" are lands used by the owner for the generation of income through a business venture as a sole proprietorship, a partnership, or a corporation.

G. "Look back period" is the period of years prior to acceptance to the program as classified land, qualifying and categorized as follows:

Category 1: Five (5)years

Category 2: Five (5)years

Category 3: Five (5)years

Category 4: Five (5)years

H. "Maximum percentage increase" is a value by which assessments may be allowed to rise as classified land, qualifying and categorized as follows:

Category 1: Two (2) percent

Category 2: Two (2) percent

Category 3: Two (2) percent

Category 4: Two (2) percent

I. "Maximum penalty percentage" is a value by which penalties may be assessed on classified land, qualifying and categorized as follows:

Category 1: Thirty (30) percent

Category 2: Thirty (30) percent

Category 3: Thirty (30) percent

Category 4: Thirty (30) percent

§1132. Application by owner

The owner of any qualifying land may apply for taxation under this subchapter at his election and subject to the provisions of this chapter. The election to apply shall require the unanimous consent of all owners of an interest in that qualifying land.

1. Filing application. The owner shall file a written application with the assessor and, if approved as classified land by the assessor, shall provide a copy of the approved application for recordation with the register of deeds for the jurisdiction in which the land subject to taxation exists. Any costs associated with such application filing and recordation shall be borne by the owner. The application must be filed on or before March 1st for the land to be a classified land for the tax year beginning April 1st of the same year.

2. Content. The application must be on a form prescribed by the State Tax Assessor and must clearly identify the land potentially subject to taxation under the program and must include a statement that the owner has intentions to retain the land for the expressed use(s) and in the classification(s) for which the owner is applying. If there is more than one recorded owner of that land, each owner must file with the application written consent to elect taxation under the program.

3. Determination. The assessor shall notify the landowner whether the application is accepted and the land is classified land or the application is denied. If the application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to conform to the requirements of this subchapter. An applicant may appeal a denial of an exemption under this subchapter using the procedures provided in subchapter VIII.

4. Examination; information. The assessor or the assessor's authorized representative may enter and examine lands under this subchapter for tax purposes and may examine any information submitted by the owner or owners. Upon notice in writing by certified mail, return receipt requested, any owner or owners shall, within 60 days of the receipt of the notice, respond to such written questions or interrogatories as the assessor

considers necessary to obtain material information about those lands. If the assessor can not reasonably obtain the required material information regarding those lands through 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 questions or interrogatories necessary to obtain material information about those lands.

5. Owner obligation. The owner or owners shall report to the assessor any change in ownership or change(s) in use of classified land.

§1133. Valuations

1. Base valuation. Except as otherwise provided, the base valuation for classified land for tax purposes is assessed value of the land adjusted by the applicable local assessment ratio for the earliest year in the applicable look back period or for the year 1997 during the first two years of the program.

A. If the land is not classified and the owner of the land applying for acceptance to the program has not owned the land for all years in the applicable look-back period but acquired the land under circumstances that would not be deemed a change of ownership under section 1135, subsection 1, paragraph B, subparagraph (1) to (8), then the look-back period under this subsection that applies in determining base valuation is the lesser of the applicable look-back period or the current term of ownership plus the immediately preceding term of ownership.

B. If the land is not classified and the owner applying for acceptance to the program has not owned the land for all years in the look back period, and acquired the land under circumstances that constitute a change in ownership under section 1135, then the base valuation for classified land for tax purposes is the assessed value of comparable land in the municipality or unorganized territory as applicable, adjusted by the applicable local assessment ratio.

C. If the land is classified and the owner applying for acceptance in the program acquired classified land under circumstances that would not be deemed a change of ownership under section 1135, subsection 1, paragraph B, subparagraph (1) to (8), then the base valuation for the land subject to taxation under the program is the current program assessed

value of the classified parcel under subsection 2, divided by total acreage in the classified parcel times the acreage in the portion of the classified parcel for which the owner is applying for acceptance in the program.

2. Program assessed value. The program assessed value for classified land for tax purposes is:

A. For the first year under the program, the base valuation under subsection 1; and

B. For subsequent years under the program, the base valuation as adjusted by any cumulative increases and decreases authorized under section 1134.

3. Change in ownership. Base valuation and program assessed value under this section are subject to recalculation when there is a change in ownership pursuant to section 1135, subsection 2.

4. Change in use. Base valuation and program assessed value under this section are subject to recalculation when there is a change in use pursuant to section 1136, subsection 2.

§1134. Assessment adjustments

1. Annual adjustments. The program assessed value of classified land may be adjusted annually on April 1st, subject to this section.

2. Assessment adjustment limited.

A. The assessed value of classified land may be adjusted under the annual adjustment by the lesser of:

(1) The maximum percentage increase for the classified land category applied to the program assessed value of the prior year; or

(2) The percent change (increase or decrease) in the Consumer Price Index for all urban consumers.

3. Assessment authorized. Nothing in this subchapter prevents:

A. An assessment based on less than a 100% valuation; or

B. A decrease in the assessed value of classified land due to a change in economic conditions or a change in classified land category or change in land use or restriction in permitted land use.

C. An increase in assessed value of classified land due to a change in classified land category or change in land use.

4. Assessment limited. The current program assessed value will not be greater than the assessed value of comparable non-classified land in the municipality or unorganized territory as applicable and shall not be less than the lower of 100% valuation per acre for farmland or 100% valuation per acre for timberland.

5. Assessments. Classified land must be taxed at the property tax rate applicable:

A. To other property in the municipality if the land is in an organized area; or

B. To other property in the unorganized territory if the land is in the unorganized territory.

§1135. Change of ownership.

1. Change in ownership determined. A change of ownership is:

A. For commercial properties, a change in controlling interest of the company owning the land as defined in Title 36, Chapter 711-A, §4641 (1-A); and

B. For all other properties, a transfer by sale or grant to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in a property except for a transfer:

(1) To a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;

(2) To the spouse of the transferor that takes effect upon the death of the transferor;

(3) That creates, transfers or terminates, solely between spouses, any co-owner's interest;

(4) To one or more direct relatives of the transferor;

(5) To any person by bequest;

(6) That confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the land is located;

(7) For the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;

(8) To a revocable trust by the transferor with the transferor, the transferor's spouse or a direct relative of the transferor as beneficiary; or

(9) From a revocable trust described in subparagraph (8) back to the settlor or trustor or to the beneficiaries of the trust.

C. When a portion of classified land is transferred or withdrawn from the program, the current program assessed value of the remaining parcel(s) is proportional to the acreage of the entire unapportioned parcel.

2. Effect. When there is a change in ownership:

A. If the new owner does not apply for taxation under the program, the valuation of the new owner's parcel reverts to fair market value; or

B. If the new owner applies for taxation under the program and if money changes hands during the change in ownership, the base valuation for the new owner's land subject to taxation under the program becomes the purchase price of the land or the current program assessed value under section 1133, subsection 2, whichever is larger.

C. If the new owner applying for acceptance in the program acquired classified land under circumstances that would not be deemed a change of ownership under section 1135, subsection 1, paragraph B, subparagraph (1) to (8), then the base valuation for the new owner's land subject to taxation under the program is the base valuation under section 1133, subsection 1, paragraph (C).

§1136. Change in use

1. Change in use determined. A change in use is use of the land which changes the character of the land to a higher or lower valued use and changes the qualifying land category under section 1131, subsection 2, paragraph D. Classified land that was acquired under circumstances that would not be deemed a change of ownership under section 1135, subsection 1 and that does not change the qualifying land category of the parcel under section 1131, subsection 2, paragraph D is not a change in use.

2. Requalification. When there is a change in use:

A. Land subject to taxes under this program may be requalified as to land category by the municipal assessor, chief assessor or State Tax Assessor upon application of the owner with a proper showing of the reasons justifying that requalification, or

B. When there is a change to a higher valued use, upon the initiative of the respective municipal assessor, chief assessor or State Tax Assessor where the facts justify the same. In the event that the municipal assessor, chief assessor or State Tax Assessor determines, upon his own initiative, to requalify land previously qualified under this program, he shall provide the owner or owners of the land by certified mail, return receipt requested, notice of his intention to requalify that land and the reasons therefor.

3. Effect. When there is a change in use, the current program assessed value of the land is the base valuation of the land at the new qualifying land use at the time the parcel was first accepted into the program adjusted annually from that time in accord with section 1134.

§1137. Penalty for change to a higher valued use or withdrawal or change in ownership; evasion

1. Penalty imposed.

A. When there is a change in ownership as determined under section 1135 or when a program participant opts to withdraw from the program, except when the change is occasioned by a transfer to the State or other entity holding the power of eminent domain, resulting from the exercise or threatened exercise of that power, a penalty upon the owner must be imposed and paid to the municipality or unorganized

territory in which the land is located that is the greater of:

(1) An amount equal to the taxes that would have been assessed on the first day of April for the 5 preceding tax years equal in number to the look back period, or any lesser number of tax years starting with the year in which the land was first accepted under the program for the current owner, preceding such change in ownership or withdrawal had that land been assessed in each of those years at its fair market value on the date of change of ownership or withdrawal less all taxes paid on that real estate by the current owner over the preceding tax years, and interest at the legal rate from the date or dates on which those amounts would have been payable; or

(2) An amount computed by multiplying the amount, if any, by which the computational value of the land on the date of withdrawal or change of ownership exceeds the 100% program-assessed value of the land on the preceding April 1st, by the following rates:

(i) If the land was subject to the program 10 years or less prior to the date of withdrawal or change of ownership, the maximum penalty percentage; and

(ii) If the land was subject to the program for more than 10 years prior to the date of withdrawal or change of ownership, that percentage obtained by subtracting 1% from the maximum penalty percentage for each full year beyond 10 years that the land was subject to the program prior to the date of withdrawal until a rate of 20% is reached.

B. When there is a change to a higher valued use as determined under section 1136, a penalty upon the owner must be imposed and paid to the municipality or unorganized territory in which the land is located that is an amount equal to the taxes that would have been assessed on the first day of April for the preceding tax years equal in number to the look back period, or any lesser number of tax years starting with the year in which the land was first accepted under the program for the current owner, preceding such change to a higher valued use had that land been assessed in each of those years at its new qualifying use less all taxes paid on that

real estate over those tax years by the current owner, and interest at the legal rate from the date or dates on which those amounts would have been payable.

C. Computational value of the land is defined as:

(1) In the event that land is voluntarily withdrawn from the program and is retained by the owner without transfer or sale, the computational value will be equal to the fair market value.

(2) In the event that the new owner applies and is accepted for taxation under the program, the computational value will be equal to either the purchase price of the land or the fair market value, whichever is lower.

(3) Otherwise, the computational value will be equal to either the purchase price of the land or the fair market value, whichever is higher.

D. In the event that land is voluntarily withdrawn from the program and is retained by the owner without transfer or sale:

(1) If the land is sold during the five years following the date of withdrawal of land from the program, and if the new owner applies for taxation under the program within that same five year period, a condition of acceptance to the program will be the payment of a penalty upon the new owner that is equal to:

- i. A penalty as described in this section using the purchase price of the land as the computational value,
- ii. Less the penalty already paid by the previous owner.

(2) If the new owner does not apply for taxation under the program or if the land is sold to a third party, there will be no further penalties imposed associated with this transaction.

E. Any penalty assessed may be considered for abatement pursuant to the procedures in subchapter VIII.

2. Recording; title affected. When a penalty has been assessed as required under subsection 1, the penalty must be

recorded by the assessor with the appropriate register of deeds. Until such time as the penalty is paid, there shall be a lien to secure payment which is to be enforced in accordance with Title 36, Article 2, §941.

3. Evasion. A person who intentionally attempts to avoid or lower the penalty imposed by this section or who makes false statements in making an application under this subchapter is subject to prosecution under §184-A.

§1137. Application

1. Buildings, etc. Any land, building, mobile home or other thing affixed to land and that would be considered real estate under section 551 and that has not been classified is subject to assessment and taxation in the same manner as comparable non-classified property in the municipality or unorganized territory, as applicable.

2. Change in land holdings. Each addition to or reduction in classified land or a portion of classified land is subject to this subchapter.

3. Effect on other laws. Participation in the program does not preclude participation in other programs, such as, but not limited to, the Maine Tree Growth Tax Law or the farm and open space tax laws. In the event that there is any conflict among land values determined by different programs, that value which most favors the landowner will be used.

SUMMARY

This bill proposes to encourage the preservation of homestead lands and lands used for the generation of income, providing property tax relief to property owners in the State. Under the bill, a voluntary Maine Land Bank and Community Preservation Program is created for residential and nonresidential real estate, subject to certain categorizations. The program would apply to land only and not buildings. The base value of land would be determined by looking back a defined number of years to the assessed value of the land as adjusted by using the applicable local assessment ratio for that year. The program would include provisions requiring adjustments or penalties in cases when there is a change in use or in ownership other than to a family member or by designated bequest or the land is withdrawn from the program. The entire bill is conditional upon an amendment to the Constitution of Maine passing at statewide election.