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An Act To Provide Equitable Property Tax Relief To Maintain Traditional Communities

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

PART A

Sec. A-1. 30-A MRSA §5250-I, sub-§16, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

16. Qualified business activity. "Qualified business activity" means a business activity that is conducted within a Pine Tree Development Zone and is directly related to financial services, manufacturing, a natural resources support business as defined in section 5451, subsection 4 or a targeted technology business for which the business receives a certificate from the commissioner pursuant to section 5250-O.

Sec. A-2. 30-A MRSA c. 215 is enacted to read:

CHAPTER 215

NATURAL RESOURCES BUSINESS SUPPORT

§ 5451. Definitions

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

1. Department. "Department" means the Department of Economic and Community Development.

2. Natural resources business support arrangement. "Natural resources business support arrangement" means an arrangement that meets requirements established by the department by rule under which:

A. The owner of a qualified natural resources business grants to a municipality a qualified easement; and

B. The municipality obligates itself to make natural resources business support payments.

3. Natural resources business support payments. "Natural resources business support payments" means annual payments by a municipality during the term of a qualified easement:

A. In an amount up to 100% of the annual property taxes assessed by that municipality against land and buildings subject to a qualified easement up to the fair market value of the easement; and

B. To the person against whom the property taxes are assessed.

4. Natural resources support business. "Natural resources support business" means a business whose existence in a community makes a substantial contribution to the operation of natural resources-based economic activities including agriculture, fishing, forestry and ecotourism.

5. Qualified easement. "Qualified easement" means an easement held by a municipality on qualified natural resources business land in that municipality that:

A. Is designed to ensure that no development other than development related to natural resources support occurs on the qualified natural resources business land; and

B. Is limited to a term of not less than 20 years.

6. Qualified natural resources business land. "Qualified natural resources business land" means land that is necessary for the operation of a natural resources business.

§ 5452. Program established

1. Program. In order to protect and support local natural resources businesses, preserve land for natural resources businesses and reduce the potential tax burdens from new development, a municipality may enter into natural resources business support arrangements with the owners of qualified natural resources business land.

A. A natural resources business support arrangement must be approved by majority vote of the municipality's legislative body.

B. Unless approved by a 2/3 vote of the municipality's legislative body, the municipality may not enter into natural resources business support arrangements:

(1) Affecting more than 3% of the total annual valuation of taxable land in the municipality; and

(2) Affecting more than 1% of the total annual valuation of taxable land in the municipality in any calendar year.

2. Effects of arrangement. A natural resources business support arrangement may not diminish the eligibility of qualified natural resources business land for participation in tax benefits under Title 36, chapter 105, subchapter 2-A or Title 36, chapter 105, subchapter 10 or for consideration under Title 5, Part 15-A by the Land for Maine's Future Board.

3. Nullification. A natural resources business support arrangement, once finally executed, is binding on the municipality. A municipality may not cease to make payments under the arrangement unless the land subject to the qualified easement is taken by eminent domain or state law otherwise authorizes the payments to cease. In the event that a municipality's obligation to make natural resources

business support payments ceases, the natural resources business support arrangement and the related qualified easement are void and may not be given effect and the municipality shall provide notice of this fact to the owner of the qualified natural resources business land and record that notice with the appropriate registry of deeds.

PART B

Sec. B-1. 36 MRSA c. 908-A is enacted to read:

CHAPTER 908-A

MUNICIPAL OPTION DEFERRAL OF HOMESTEAD PROPERTY TAXES

§ 6281. Municipal option

A municipality may adopt municipal option deferral of homestead property taxes as provided in this chapter by an ordinance that must be approved by the voters of the municipality in the same manner as for the election of municipal officers. An ordinance adopted under this chapter may include income-based limits on eligibility.

§ 6282. Definitions

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

1. Homestead. "Homestead" means the owner-occupied principal dwelling, either real or personal property, owned by the taxpayer and up to 10 contiguous acres upon which it is located. If the homestead is located in a multi-unit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any.

2. Municipal income limit. "Municipal income limit" means the amount, if any, adopted by a municipal ordinance as the maximum household income under which a homestead is eligible for deferral under this chapter.

3. Tax-deferred property. "Tax-deferred property" means the property upon which taxes are deferred under this chapter.

4. Taxes. "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

5. Taxpayer. "Taxpayer" means an individual who has filed a claim for deferral under this chapter or individuals who have jointly filed a claim for deferral under this chapter.

§ 6283. Deferral of tax on homestead; joint election; age requirement; filing claim

1. Filing claim. Subject to section 6284, an individual or 2 or more individuals jointly may elect to defer the property taxes on a homestead by filing a claim for deferral with the municipal assessor after January 1st but no later than April 1st of the first year in which deferral is claimed if:

A. The individual, or each individual in the case of 2 or more individuals filing a claim jointly, is 65 years of age or older on April 1st of the year in which the claim is filed;

B. The individual or, in the case of 2 or more individuals filing a claim jointly, all the individuals together have household income, as defined in section 6201, subsection 7, of less than the municipal income limit for the calendar year immediately preceding the calendar year in which the claim is filed; and

C. The municipality in which the homestead is located has adopted an ordinance under section 6281.

2. Property tax deferral. If a taxpayer is determined to be eligible to defer property taxes for any year by filing a claim for deferral under subsection 1, property tax deferral has the effect of:

A. Deferring the payment of the property taxes levied on the homestead for the municipal fiscal year beginning on or after April 1st of that year;

B. Continuing deferral of the payment by the taxpayer of any property taxes deferred under this chapter for previous years that have not become delinquent under section 6291; and

C. Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of section 6284 are met.

3. Appeal. Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may file an appeal with the State Board of Property Tax Review as provided in chapter 101, subchapter 2-A.

§ 6284. Property entitled to deferral

In order to qualify for tax deferral under this chapter, the property must meet all of the following requirements when the claim is filed and thereafter as long as the payment of taxes by the taxpayer is deferred.

1. Claimant's homestead. The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health.

2. Fee simple estate. The person claiming the deferral must, solely or together with the person's spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or 2 or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly.

3. No prohibitions. There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security.

§ 6285. Claim forms; contents

1. Administration. A taxpayer may file a claim for deferral under this chapter in writing on a form supplied by the bureau and must:

- A. Describe the homestead;
- B. Establish eligibility for the deferral under the provisions of this chapter; and
- C. Attach any information required by the bureau to show that the requirements of section 6284 have been met.

2. Statement verification. The claim must contain a statement verified by a written declaration of the applicant that the statements contained in the claim are true.

§ 6286. State liens against tax-deferred property

1. Lien. The lien provided in section 552 continues for purposes of protecting the municipality's deferred tax interest in tax-deferred property. When it is determined that one of the events set out in section 6290 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the municipal assessor shall send notice by certified mail to the owner, or the owner's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and demanding payment on or before April 30th of the year following the tax year in which the circumstances causing withdrawal from the provisions of this chapter occur.

When the circumstances listed in section 6290, subsection 4 occur, the amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State.

If the deferred tax liability of a property has not been satisfied by the April 30th demand date, the municipal assessor shall, within 30 days, record in the registry of deeds in the county where the real estate is located a tax lien certificate signed by the municipal assessor or bearing the municipal assessor's facsimile signature, setting forth the total amount of deferred tax liability, a description of the real estate on which the tax was deferred and an allegation that a tax lien is claimed on the real estate to secure payment of the tax, that a demand for payment of the tax has been made in accordance with this section and that the tax remains unpaid.

At the time of the recording of the tax lien certificate in the registry of deeds, the municipal assessor shall send by certified mail, return receipt requested, to each record holder of a mortgage on the real estate, to the holder's last known address, a true copy of the tax lien certificate. The cost to be paid by the property owner, or the owner's heirs or devisees, is the sum of the fees for recording and discharging of the lien

as established by Title 33, section 751, plus \$13. Upon redemption, the municipal assessor shall prepare and record a discharge of the tax lien mortgage. The lien described in section 552 is the basis of this tax lien mortgage procedure.

The filing of the tax lien certificate, provided for in this section, in the registry of deeds creates a mortgage on the real estate to the municipality and has priority over all other mortgages, liens, attachments and encumbrances of any nature and gives to the municipality all rights usually instant to a mortgage, except that the mortgagee does not have any right of possession of the real estate until the right of redemption expires.

Payments accepted during the redemption period may not interrupt or extend the redemption period or in any way affect the foreclosure procedures.

2. Foreclosure. If the mortgage, including interest and costs, is not paid within 12 months of the date on which the certificate was filed in the registry of deeds, as provided in this section, the mortgage is deemed foreclosed and the right of redemption expired.

3. Inventory. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. Whenever the municipality acquires title to real estate, the municipal assessor shall cause an inventory to be made of all such real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any information necessary to the administration and supervision of the real estate.

4. Sale. The municipal assessor shall sell or shall convey any inventoried real estate, but shall in all cases of sales, except sales to former owners of the real estate, give public notice of the proposal to sell the real estate and shall ask for competitive bids and sell to the highest bidder with the right of rejecting all bids.

5. Foreclosure receipts. Following the sale by the municipal assessor of real property acquired through the tax lien certificate procedure outlined in this chapter, all claims of the municipality evolving from the homestead property tax deferral are satisfied, as well as any tax delinquencies relative to the property in question in the municipality where located. The residual amount resulting from the sale of the property is to be returned to the former owner or to the owner's heirs or devisees.

§ 6287. Listing of tax-deferred property; interest accrual

1. Tax-deferred property list. If eligibility for deferral of homestead property is established as provided in this chapter, the municipal assessor shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating that property as tax-deferred property.

2. Interest. Interest shall accrue on the actual amount of taxes deferred by the municipality for the tax-deferred property at the rate of the higher of 6% per year or the municipal interest rate for unpaid taxes for the years for which taxes were deferred.

§ 6288. Recording liens in county; recording constitutes notice of municipal lien

1. Recording of liens. The municipal assessor shall record in the mortgage records of the county a list of tax-deferred properties of that municipality. The list must contain a description of the property as listed in the municipal valuation together with the name of the owner listed on the valuation. The list must be corrected annually to reflect the addition or deletion of tax-deferred properties as well as partial payments received.

2. Notice of recording. The recording of the tax-deferred properties under subsection 1 is notice that the municipality claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county register of deeds in connection with the recording, release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

§ 6289. Annual notice to taxpayer

1. Annual deferral notice. On or before December 15th of each year, the municipal assessor shall send a notice to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice must:

- A. Inform the taxpayer that the property taxes have been deferred in the current year;
- B. Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing therein to November 15th of the current year;
- C. Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the municipality; and
- D. Contain any other information that the municipal assessor considers necessary to facilitate administration of the homestead property tax deferral program under this chapter, including, but not limited to, the right of the taxpayer to submit any amount of money to reduce the total amount of the deferred taxes and interest.

2. Notice mailed. The municipal assessor shall give the notice required under subsection 1 by mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the municipal assessor to be the correct address of the taxpayer.

§ 6290. Events requiring payment of deferred tax and interest

Subject to section 6292, all property taxes deferred under this chapter, including accrued interest, become payable as provided in section 6291 when:

1. Death of claimant. The taxpayer who claimed deferral of collection of property taxes on the homestead dies or, if there was more than one claimant, the last survivor of the taxpayers who originally claimed deferral of collection of property taxes under section 6283 dies;

2. Sale of property. The property with respect to which deferral of collection of taxes is claimed is sold, a contract to sell is entered into or a person other than the taxpayer or taxpayers who claimed the deferral becomes the owner of the property.

3. Claimant moves. The tax-deferred property is no longer the homestead of the taxpayer or taxpayers who claimed the deferral, except in the case of a taxpayer required to be absent from that tax-deferred property by reason of health; or

4. Removal of home. The tax-deferred property is a mobile or floating home and is moved out of the State.

§ 6291. Time for payments; delinquencies

Whenever a circumstance listed under section 6290 occurs:

1. Continuation of assessment year. The deferral of taxes for the assessment year in which the circumstance occurs continues for that assessment year;

2. Deferred property taxes due. The amount of deferred property taxes, including accrued interest, for all years is due and payable to the bureau by April 30th of the year following the calendar year in which the circumstance occurs, except as provided in subsection 3 and section 6292;

3. Out-of-state move. Notwithstanding the provisions of subsection 2 and section 6294, when the circumstance listed in section 6290, subsection 4 occurs, the amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State; and

4. Delinquency. If the amount falling due as provided in this section is not paid on the indicated due date or as extended under section 6294, that amount is deemed delinquent as of that date and the property is subject to foreclosure as provided in section 6286.

§ 6292. Election by spouse to continue tax deferral

1. Continuation by spouse. When one of the circumstances listed in section 6290, subsections 1 to 3 occurs, the spouse who did not or was not eligible to file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided under section 6283 if:

A. The spouse of the taxpayer is or will be 65 years of age or older not later than 6 months from the day one of the circumstances listed in section 6290, subsections 1 to 3 occurs; and

B. The property is the homestead of the spouse of the taxpayer and meets the requirements of section 6284, subsection 2.

2. Continuation of deferral by spouse. A spouse who does not meet the age requirements of subsection 1, paragraph A but is otherwise qualified to continue the property in its tax-deferred status under subsection 1 may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided under section 6283. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 65 years of age prior to April 1st of any year, the spouse may elect to continue the deferral of taxes of previous years under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided under section 6283. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this chapter.

§ 6293. Voluntary payment of deferred tax and interest

1. Payments. All payments of deferred taxes must be made to the municipal tax collector.

2. Taxes and interest. Subject to subsection 3, all or part of the deferred taxes and accrued interest may at any time be paid to the municipal tax collector by:

A. The taxpayer or the spouse of the taxpayer; or

B. The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

3. Notice of payment. A person listed in subsection 2, paragraph B may make the payments under this section only if no objection is made by the taxpayer within 30 days after the municipal tax collector deposits in the mail notice to the taxpayer of the fact that the payment has been tendered.

4. Payment application. Any payment made under this section must be applied first against accrued interest and any remainder against the deferred taxes. This payment does not affect the deferred-tax status of the property. Unless otherwise provided by law, this payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement.

5. Lien discharge. When the deferred taxes and accrued interest are paid in full under this section and the property is no longer subject to deferral, the municipal assessor shall prepare and record in the county in which the property is located a lien discharge.

§ 6294. Extension of time for payment upon death of claimant or spouse

1. Payment extension. If the taxpayer who claimed a homestead property tax deferral under this chapter dies or if a spouse who continued the deferral under section 6292 dies, the municipal assessor may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under section 6291, subsection 2, if:

A. The homestead property becomes property of an individual or individuals:

(1) By inheritance or devise; or

(2) If the individual or individuals are heirs or devisees in the course of settlement of the estate;

B. An individual or individuals commence occupancy of the property as a principal residence on or before August 15th of the calendar year following the calendar year of death; or

C. An individual or individuals make application to the municipal assessor for an extension of time for payment of the deferred taxes and interest prior to August 15th of the calendar year following the calendar year of the death.

2. Extension terms. Subject to paragraph B, an extension granted under this section may not exceed 5 years after August 15th of the calendar year following the calendar year of the death. The terms and conditions under which the extension is granted must be in accordance with a written agreement entered into by the municipal assessor and the individual or individuals.

An extension granted under this section terminates immediately if:

A. The homestead property is sold or otherwise transferred by any party to the extension agreement;

B. All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

C. The homestead property is a mobile or floating home and is moved out of the State.

3. Accrued interest. During the period of extension, and until paid, the deferred taxes continue to accrue interest in the same manner and at the same rate as provided under section 6287, subsection 2. Interest may not accrue upon interest.

§ 6295. Limitations

The provisions of this chapter do not:

1. Foreclosure. Prevent the collection, by foreclosure, of property taxes that become a lien against tax-deferred property; and

2. Land provisions. Affect any provision of any mortgage or other instrument relating to land requiring a person to pay property taxes.

§ 6296. Deed or contract clauses preventing application for deferral prohibited; clauses void

After the effective date of this chapter, it is unlawful for a mortgage trust deed or land sale contract to contain a clause or statement that prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in this chapter. Any such clause or statement in a mortgage trust deed or land sale contract executed after the effective date of this chapter is void.

SUMMARY

This bill provides property tax relief for the purpose of maintaining the State's traditional communities through 2 methods.

The first method allows municipalities to enter into arrangements with natural resources support businesses through which the business grants a time-limited easement to the municipality to limit the use of property to natural resources business support in exchange for payments from the municipality to alleviate a portion of the property tax burden.

The 2nd method provides a system for municipalities to adopt an ordinance to permit persons 65 years of age or older to choose to defer property taxes on homesteads until the property is transferred in order to enable traditional families to remain in their homes despite increasing property values and taxes. Eligibility may be income-limited.

The bill also extends Pine Tree Development Zone benefits to natural resources support businesses located in a Pine Tree Development Zone.