



# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1691

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H.P. 1157

House of Representatives, March 31, 2016

### An Act To Improve the Maine Tree Growth Tax Law Program

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STANLEY of Medway. (GOVERNOR'S BILL)

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

2 **Sec. 1. 36 MRSA §572, last ¶**, as enacted by PL 1971, c. 616, §8, is amended to  
3 read:

4 Therefore, this subchapter is enacted for the purpose of taxing forest lands generally  
5 suitable for the planting, culture, harvesting and continuous growth of forest products on  
6 the basis of their potential for annual wood production in accordance with the following  
7 provisions.

8 **Sec. 2. 36 MRSA §573, sub-§3-B**, as enacted by PL 1995, c. 236, §3, is amended  
9 to read:

10 **3-B. Forest products that have commercial value.** "Forest products that have  
11 commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood,  
12 poles, pilings, biomass, or fuel wood, ~~Christmas trees, maple syrup, nursery products~~  
13 ~~used for ornamental purposes, wreaths, bough material or cones or other seed products.~~

14 **Sec. 3. 36 MRSA §574-B**, as amended by PL 2011, c. 618, §2, is further amended  
15 by adding at the beginning a new paragraph to read:

16 The provisions of this subchapter do not apply to a parcel of land smaller than 25  
17 acres of forest land or to a parcel of land any part of which is located within 10 miles of  
18 the Atlantic Ocean; except that this subchapter applies to a parcel of land that is at least  
19 10 acres in size and that was enrolled under this subchapter prior to April 1, 2017 as long  
20 as no part of that parcel of land is located within 10 miles of the Atlantic Ocean.

21 **Sec. 4. 36 MRSA §574-B, first ¶**, as amended by PL 2011, c. 618, §2, is further  
22 amended to read:

23 An owner of a parcel containing forest land may apply at the landowner's election by  
24 filing with the assessor the schedule provided for in section 579, ~~except that this~~  
25 ~~subchapter does not apply to any parcel containing less than 10 acres of forest land.~~ For  
26 purposes of this subchapter, a parcel is deemed to include a unit of real estate,  
27 notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal  
28 or county line. The election to apply requires the written consent of all owners of an  
29 interest in a parcel except for the State. For applications submitted on or after August 1,  
30 2012, the size of the exclusion from classification under this subchapter for each structure  
31 located on the parcel and for each residential structure located on the parcel in shoreland  
32 areas is determined pursuant to section 574-C.

33 **Sec. 5. 36 MRSA §574-B, sub-§1**, as amended by PL 2009, c. 434, §15, is  
34 further amended to read:

35 **1. Forest management and harvest plan.** A forest management and harvest plan  
36 setting forth a description of the parcel and a schedule for the planting, culture, harvesting  
37 and continuous growth of forest products on the land must be prepared for each parcel  
38 and updated every 10 years. The landowner shall file a sworn statement with the  
39 municipal assessor for a parcel in a municipality or with the State Tax Assessor for a

1 parcel in the unorganized territory that a forest management and harvest plan has been  
2 prepared for the parcel. When requested by the municipal assessor, the State Tax  
3 Assessor or the Bureau of Forestry, the landowner shall provide a copy of the plan, and  
4 any plan that has expired within 2 years of the request, to facilitate review of and  
5 compliance with the plan;

6 **Sec. 6. 36 MRSA §574-B, sub-§2**, as amended by PL 2011, c. 618, §2, is further  
7 amended to read:

8 **2. Evidence of compliance with plan.** The landowner must comply with the plan  
9 developed under subsection 1, and must submit, every 10 years to the municipal assessor  
10 in a municipality or the State Tax Assessor for parcels in the unorganized territory, a  
11 sworn statement from a licensed professional forester that the landowner is making a  
12 reasonable effort in managing the parcel according to schedules in the plan required  
13 under subsection 1;

14 **Sec. 7. 36 MRSA §575-A, sub-§3** is enacted to read:

15 **3. Review of forest management and harvest plan by Bureau of Forestry.** The  
16 Director of the Bureau of Forestry within the Department of Agriculture, Conservation  
17 and Forestry is authorized to review the forest management and harvest plan of any parcel  
18 enrolled under this subchapter to determine whether the plan complies with this  
19 subchapter and whether the landowner is making a reasonable effort to manage the parcel  
20 according to the schedules in that plan.

21 A. For the purposes of this subsection, the Director of the Bureau of Forestry or the  
22 director's designee may:

23 (1) With appropriate notification to the landowner, enter and examine forest land  
24 for the purpose of determining compliance with the forest management and  
25 harvest plan pursuant to section 574-B;

26 (2) Request and review a forest management and harvest plan required under  
27 section 574-B, which must be provided by a landowner or the landowner's agent  
28 upon request; and

29 (3) Request and review an expired forest management and harvest plan, which  
30 must be provided by a landowner or the landowner's agent upon request.

31 B. If the Bureau of Forestry determines that a landowner is not in substantial  
32 compliance with this subchapter or that a parcel is not being managed in substantial  
33 compliance with a plan developed under subsection 1, the Bureau of Forestry shall  
34 provide notice of its determination to that landowner and notice that the landowner  
35 has 120 days to come into substantial compliance with this subchapter and to bring  
36 the parcel into substantial compliance with the plan. If the landowner fails to come  
37 into substantial compliance or to bring the parcel into substantial compliance by the  
38 end of the 120 days, the Bureau of Forestry shall report the noncompliance to the  
39 assessor for that parcel who, pursuant to section 581, shall withdraw the land from  
40 taxation under this subchapter.

1 A forest management and harvest plan provided to the Director of the Bureau of Forestry  
2 or the director's designee under this subsection is confidential. Information collected  
3 pursuant to this subsection is confidential and is not a public record as defined in Title 1,  
4 section 402, subsection 3, except that the director may publish at least one summary  
5 report annually, which may not reveal the activities of any person and that is available as  
6 a public record.

7 This subsection is repealed on March 31, 2020.

8 **Sec. 8. 36 MRSA §578, sub-§1**, as amended by PL 2011, c. 404, §1, is further  
9 amended to read:

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

16 The State Tax Assessor shall determine annually the amount of acreage in each  
17 municipality that is classified and taxed in accordance with this subchapter. Each  
18 municipality is entitled to annual payments distributed in accordance with this section  
19 from money appropriated by the Legislature if it submits an annual return in accordance  
20 with section 383 and if it achieves the minimum assessment ratio established in section  
21 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory  
22 form by August 1st of the year following the submission of the annual return. The  
23 municipal reimbursement appropriation is calculated on the basis of 90% of the per acre  
24 tax revenue lost as a result of this subchapter. For property tax years based on the status  
25 of property on April 1, 2008 and April 1, 2009, municipal reimbursement under this  
26 section is further limited to the amount appropriated by the Legislature and distributed on  
27 a pro rata basis by the State Tax Assessor for all timely filed claims. For purposes of this  
28 section, "classified forest lands" means forest lands classified pursuant to this subchapter  
29 as well as all areas identified as forested land within farmland parcels that are transferred  
30 from tree growth classification pursuant to section 1112 on or after October 1, 2011. For  
31 the purposes of this section, the tax lost is the tax that would have been assessed, but for  
32 this subchapter, on the classified forest lands if they were assessed according to the  
33 undeveloped acreage valuations used in the state valuation then in effect, or according to  
34 the current local valuation on undeveloped acreage, whichever is less, minus the tax that  
35 was actually assessed on the same lands in accordance with this subchapter, and adjusted  
36 for the aggregate municipal savings in required educational costs attributable to reduced  
37 state valuation. A municipality that fails to achieve the minimum assessment ratio  
38 established in section 327 loses 10% of the reimbursement provided by this section for  
39 each one percentage point the minimum assessment ratio falls below the ratio established  
40 in section 327. The State Tax Assessor may not make payment pursuant to this  
41 subchapter to a municipality in the year following notification by the Bureau of Forestry  
42 that the municipality has failed to remove a parcel from enrollment under this subchapter  
43 pursuant to the requirements under section 575-A, subsection 3.

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

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

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

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

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

17 (b) A base lot; or

18 (c) Waste land.

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

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

28 **Sec. 9. 36 MRSA §581, sub-§2-A** is enacted to read:

29 **2-A. Parcels smaller than 25 acres.** A landowner of a parcel of land smaller than  
30 25 acres that was taxed pursuant to this subchapter for a property tax year beginning  
31 before April 1, 2017 may:

32 A. Following withdrawal of that parcel from classification under this subchapter, by  
33 April 1, 2017 apply for classification of that parcel under the open space land laws  
34 pursuant to section 1106-A; or

35 B. Notwithstanding subsection 3, withdraw that parcel from tree growth  
36 classification under this subchapter for the 2017 tax year. A landowner who elects to  
37 withdraw the parcel pursuant to this paragraph shall:

38 (1) Withdraw the entire parcel subject to tree growth classification in 2016 from  
39 classification under this subchapter for the 2017 tax year;

1           (2) Notify the assessor for that parcel before April 1, 2017 of the intent to  
2           withdraw the parcel; and

3           (3) Pay a penalty equal to the taxes that would have been assessed on the first  
4           day of April for the 5 tax years, or the number of tax years starting with the year  
5           in which the property was first classified, whichever is less, preceding the  
6           withdrawal had that parcel been assessed in each of those years at its fair market  
7           value on the date of withdrawal, less all taxes paid on that parcel over the  
8           preceding 5 years or the number of tax years starting with the year in which the  
9           property was first classified, whichever is less, and interest at the legal rate from  
10           the date or dates on which those amounts would have been payable.

11           **Sec. 10. 36 MRSA §581, sub-§2-B** is enacted to read:

12           **2-B. Parcels within 10 miles of the Atlantic Ocean.** A landowner of a parcel of  
13           land, any part of which is within 10 miles of the Atlantic Ocean, that was taxed pursuant  
14           to this subchapter for a property tax year beginning before April 1, 2017 shall:

15           A. By April 1, 2017, withdraw that parcel from classification under this subchapter  
16           and apply for classification of that parcel under the open space land laws pursuant to  
17           section 1106-A; or

18           B. Notwithstanding subsection 3, withdraw that parcel from tree growth  
19           classification under this subchapter for the 2017 tax year. A landowner who elects to  
20           withdraw the parcel pursuant to this paragraph shall:

21           (1) Withdraw the entire parcel subject to tree growth classification in 2016 from  
22           classification under this subchapter for the 2017 tax year;

23           (2) Notify the assessor for that parcel before April 1, 2017 of the intent to  
24           withdraw the parcel; and

25           (3) Pay a penalty equal to the taxes that would have been assessed on the first  
26           day of April for the 5 tax years, or the number of tax years starting with the year  
27           in which the property was first classified, whichever is less, preceding the  
28           withdrawal had that parcel been assessed in each of those years at its fair market  
29           value on the date of withdrawal, less all taxes paid on that parcel over the  
30           preceding 5 years or the number of tax years starting with the year in which the  
31           property was first classified, whichever is less, and interest at the legal rate from  
32           the date or dates on which those amounts would have been payable.

33           **Sec. 11. 36 MRSA §581-A**, as amended by PL 2001, c. 305, §1 and affected by  
34           §2, is repealed and the following enacted in its place:

35           **§581-A. Sale of portion of parcel of forest land**

36           **1. Sales before April 1, 2017.** For sales occurring before April 1, 2017, the sale of a  
37           portion of a parcel of forest land subject to taxation under this subchapter does not affect  
38           the taxation under this subchapter of the resulting parcels, unless any is less than 10  
39           forested acres in area. Each resulting parcel must be taxed to the owners under this  
40           subchapter until the parcel is withdrawn from taxation under this subchapter, in which  
41           case the penalties provided for in sections 579 and 581 apply only to the owner of that

1 parcel. If a parcel resulting from that sale is less than 10 forested acres in area, that parcel  
2 must be considered withdrawn from taxation under this subchapter as a result of the sale  
3 and the penalty assessed against the transferor of the resulting parcel of less than 10  
4 forested acres.

5 **2. Sales or transfers occurring on or after April 1, 2017.** For sales or other  
6 transfers occurring on or after April 1, 2017, the sale or transfer of a portion of a parcel of  
7 forest land subject to taxation under this subchapter does not affect the taxation under this  
8 subchapter of the resulting parcels, unless any is less than 25 forested acres in area. Each  
9 resulting parcel must be taxed to the owners under this subchapter until the parcel is  
10 withdrawn from taxation under this subchapter, in which case the penalties provided for  
11 in sections 579 and 581 apply only to the owner of that parcel. If a parcel resulting from  
12 that sale or transfer is less than 25 forested acres in area, that parcel must be considered  
13 withdrawn from taxation under this subchapter as a result of the sale or transfer and the  
14 penalty assessed against the transferor of the resulting parcel of less than 25 forested  
15 acres.

16 **Sec. 12. 36 MRSA §5219-OO** is enacted to read:

17 **§5219-OO. Credit for timber harvesting**

18 For taxable years beginning on or after January 1, 2016, an individual who directly  
19 owns more than 25 acres but less than 100 acres of land in the aggregate in this State is  
20 allowed a credit against the tax imposed by this Part. The credit is equal to 8% of the  
21 amount constituting the gain, if any, associated with the cutting of timber on that  
22 taxpayer's land in this State that is included in the taxpayer's federal adjusted gross  
23 income for the taxable year as farm income or as a capital gain. The credit allowed under  
24 this section may not reduce the tax otherwise due under this Part to less than zero.

25 **SUMMARY**

26 This bill makes the following changes to the Maine Tree Growth Tax Law.

27 1. It includes harvesting as an expressly stated activity for land in the Maine Tree  
28 Growth Tax Law program.

29 2. It removes certain items from the definition of "forest products that have  
30 commercial value" under the Maine Tree Growth Tax Law program.

31 3. It increases the minimum parcel size from 10 acres to 25 acres for the Maine Tree  
32 Growth Tax Law program for parcels enrolled on or after April 1, 2017. It disqualifies  
33 from participation in the program any parcel of land that is located within 10 miles of the  
34 Atlantic Ocean, beginning April 1, 2017. In the case of a sale or other transfer of  
35 qualifying parcels occurring on or after April 1, 2017, it requires the withdrawal of any  
36 resulting parcels of less than 25 acres. It provides an alternative method for withdrawal  
37 from the program for parcels smaller than 25 acres for the 2017 tax year and allows for  
38 the owners of parcels to apply for classification under the open space land laws.

1           4. It authorizes the Bureau of Forestry in the Department of Agriculture,  
2 Conservation and Forestry to audit parcels of land enrolled in the Maine Tree Growth Tax  
3 Law program to ensure compliance of the landowner with the requirements of the  
4 program and that the parcel is being managed in substantial compliance with the forest  
5 management and harvest plan for that parcel. The bureau is required to order the removal  
6 from the program of any parcel that is not substantially compliant with the requirements  
7 of the program.

8           5. It requires the State Tax Assessor to deny reimbursement to a municipality if any  
9 parcel of land enrolled in the Maine Tree Growth Tax Law program is not compliant with  
10 the program.

11           This bill also enacts a credit for certain individuals that harvest trees on Maine land.  
12 An individual who owns 25 acres or less or 100 acres or more of Maine land does not  
13 qualify for the credit. The harvesting of trees on Maine land owned by a corporation or a  
14 pass-through entity does not qualify for the credit. The credit is equal to 8% of the gain  
15 associated with the harvesting of the trees to the extent the gain is included in the  
16 taxpayer's federal adjusted gross income. The credit is not refundable and any unused  
17 credit amount may not be carried to any other tax year. The credit applies to tax years  
18 beginning on or after January 1, 2016.