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Testimony of Tom Doak

Executive Director

Maine Woodland Owners

In Support of

LD 1630

"An Act to Amend the Open Space Tax Laws"

Senator Grohoski, Representative Cloutier and Members of the Joint Standing Committee on Taxation, my name is Tom Doak, I am the Executive Director of Maine Woodland Owners speaking today in support of LD 1630, "An Act to Amend the Open Space Tax Laws."

The Open Space Tax Law program is one of the four current use taxation programs (Tree Growth, Farmland, and Working Waterfront are the other three), which values land for tax purposes based on its current use instead of its development value. Each program operates a bit differently, but they are critical to keeping properties from being converted to other uses. They all have significant penalties for noncompliance, and they all run with the land, meaning even when land changes hands, the next owner is obligated to follow the program requirements or withdraw the land and pay a heavy penalty.

Unlike the Tree Growth Tax Law program, which has been reviewed ad in finitum, the Open Space Tax Law program has had very little attention or change since it was enacted in the early 1970s. For a number of reasons, it is not as widely used as it was expected to be when it was created. I have been involved in a number of informal discussions over the past few years about the need to update the Open Space program to make it more attractive to landowners, increase its public value, and to make it easier to understand and administer the program. This proposal is a good start in addressing all these points.

One of the problems with the current Open Space program is that the reduction in valuation of 20% off ad valorem for enrolling in the program is too little to offset the potential risks (the penalty for taking land out of the program) to be of interest to most landowners. Any change should address this. We support the change from a 20% reduction from ad valorem to 45% and believe this is the most important part of this bill.

There is duplication in the existing Open Space standards. There are deductions for land that is permanently protected from development and a separate deduction for land that is also forever wild. The proposed bill consolidates these categories, which we agree with.

This bill includes a reduction in taxes under the Open Space program for activities that improve certain wildlife habitat and those which address forest carbon/climate benefits. To qualify for either of these reductions, the landowner must have a detailed written management plan. We suggest instead of the management plan requirement, the bill be amended to require a list of approved practices, which improve wildlife habitat or provide climate benefits, be created from which the landowner could choose. Once the approved practice is implemented, a licensed professional forester, at a cost borne by the landowner, could attest that the practice was completed properly to qualify for the reduction. This would also be much simpler to administer locally than having assessors reviewing management plans. The reduction in taxes would only be good for ten years and to keep the reduction after the ten years, the landowner would have to implement an additional approved practice. Attached at the end of my testimony is suggested amending language, which is identical to language in a Committee Amendment this Committee considered last year (LD 1648) on a similar bill.

We suggest one additional change. Current law allows a landowner to transfer between any of the four current use programs without penalty, provided the property meets the requirements of the new program. Tree Growth, Farmland, and Working Waterfront all have specific standards that, if met, automatically qualify the landowner to enroll in the program. Open Space is different. Open Space requires the assessor to make a subjective determination as to whether enrolling the land provides a public benefit. There is a list of factors in the statute that the assessor can consider but nothing definitive. We believe that if a property qualified for one of the other current use programs, it already provides a public benefit and should be eligible for transfer into the Open Space program. We would support language that makes this clear.

An overhaul of the Open Space Tax Law program is long overdue, and this bill is an excellent start.

Suggested amendment. This would replace Sections 2, 7, and 8 of the bill regarding management plans and replace them with wildlife habitat enhancement or climate enhancement practices.

The Bureau of Revenue Services, in consultation with the Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife, shall adopt rules to define wildlife enhancement practices and climate-friendly practices, the standards for each practice, the method of certifying that a practice has been completed, including the qualifications of the certifier, and the process of reporting to the municipal assessor, or the State Tax Assessor in the unorganized territory, on the successful implementation of an approved practice. The bureau shall consider appropriate practices and standards identified by the United States Department of Agriculture, Natural Resources Conservation Service, but the bureau may adopt modifications to those practices and standards and adopt additional eligible practices and standards. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.'