

Proposed Amendments to Maine's Tree Growth Law
Prepared by the Maine Municipal Association

Sec. 1. 36 MRSA §574-B, first two paragraphs, as last amended by PL 2007, c. 438, §12, is further amended to read:

§574-B. Applicability

An owner of a parcel containing forest land may apply at the landowner's election by filing with the assessor the schedule provided for in section 579, except that this subchapter does not apply to any parcel containing less than 10 acres of forest land. For purposes of this subchapter, a parcel is deemed to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal or county line. The election to apply requires the written consent of all owners of an interest in a parcel except for the State.

If a parcel of land for which the owner or owners are seeking classification contains any principal or accessory structures or any substantial improvements that are inconsistent with the management of the land as tree growth, the owner or owners in their schedule shall exclude from their application for classification as tree growth a parcel of land containing those buildings or improvements at least equivalent in size to the state minimum lot size as prescribed by Title 12, section 4807-A or by the zoning ordinances or zoning map pertaining to the area in which the land is located, whichever is larger. For the purposes of this section, if any of the buildings or improvements are located within shoreland areas as defined in Title 38, chapter 3, subchapter I, article 2-B, the excluded parcel must include the minimum shoreland frontage required by the applicable minimum lot standards under the minimum guidelines established pursuant to Title 38, chapter 3, subchapter I, article 2-B or by the zoning ordinance for the area in which the land is located, whichever is larger. The shoreland frontage requirement is waived to the extent that the affected frontage is part of a contiguous shore path or a beach for which there is or will be, once classified, regular and substantial use by the public. The shoreland frontage requirement may be waived at the discretion of the legislative body of the municipality if it determines that a public benefit will be served by preventing future development near the shore or by securing access for the public on the particular shoreland area that would otherwise be excluded from classification.

A parcel of land used primarily for growth of trees to be harvested for commercial use shall be taxed according to this subchapter, provided that the landowner complies with the following requirements:

Sec. 2. 36 MRSA §576, first paragraph, as last amended by PL 1997, c. 504, §6, is further amended to read:

§576. Powers and duties

The State Tax Assessor shall determine the average annual net wood production rate for each forest type described in section 573, subsections 5 to 7, in each county or region to be used in determining valuations applicable to forest land under this subchapter, on the basis of the surveys of average annual growth rates applicable in the State made from time to time by the

United States Forest Service or by the Maine Forestry Bureau. With respect to all parcels 100 acres in size or greater, the The growth rate surveys must be reduced by the percentage discount factor prescribed by section 576-B to reflect the growth that can be extracted on a sustained basis. The rates when determined remain in effect without change for each county through the property tax year ending March 31, 1975. In 1974 and in every 10th year thereafter, the State Tax Assessor shall review and set rates for the following 10-year period in the same manner.

Sec. 3. 36 MRSA §576-B, as last amended by PL 1997, c. 504, § 7, is further amended to read:

§576-B. Discount factor and capitalization rate

The percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 must be reduced to reflect the growth that can be extracted on a sustained basis is 10%. The discount factor only applies with respect to parcels 100 acres in size or greater. The capitalization rate applied to the value of the annual net wood production pursuant to section 576 is 8.5%.

Sec. 4. 36 MRSA §579, third paragraph, as last amended by PL 2003, c. 30, § 1, is further amended as follows:

The assessor or the assessor's duly authorized representative may enter and examine the forest lands under this subchapter and may examine any information submitted by the owner or owners. A copy of the forest management and harvest plan required under section 574-B must be available to the assessor to review upon request and to the Director of the Bureau of Forestry within the Department of Conservation or the director's designee to review upon request when the assessor seeks assistance in accordance with section 575-A. For the purposes of this paragraph, "to review" the forest management and harvest plan for any parcel 100 acres in size or greater means to see or possess a copy of a plan for a reasonable amount of time to verify that the plan exists or to facilitate an evaluation as to whether the plan is appropriate and is being followed. Upon completion of the review, the plan must be returned to the owner or an agent of the owner. A forest management and harvest plan, and any such plan regarding an enrolled parcel that is 100 acres in size or greater provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3. Any forest management and harvest plan prepared for a parcel less than 100 acres in size is not confidential and may be reviewed, copied, retained and otherwise managed by the municipal assessor in the same manner as all other non-confidential tax records.

Summary: This bill makes three changes to the laws governing the Tree Growth tax program. Section 1 of the bill incorporates into Tree Growth law the identical provision that pertains to the enrollment of land in the "Open Space" tax category, found at 36 MRSA §1109(3), which prohibits including within the Tree Growth enrollment the minimum lot upon which a structure sits, and for structures that are located within the shoreland zone, prohibits the inclusion of the minimally-required water frontage. Section 2 through Section 4 apply to Tree Growth parcels that are less than 100 acres in size. The bill establishes in Section 2 and Section 3 that the 10% "discount factor" that is applied in the calculation of Tree Growth acreage values for the stated purpose of "reflecting the growth that can be extracted on a sustained basis" does not apply with respect to the Tree Growth parcels smaller than 100 acres in size. Section 4 of the bill removes the confidentiality provisions that apply to forest management plans prepared for Tree Growth parcels that are smaller than 100 acres in size.