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An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland Pertaining to Taxation

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

Sec. 1. 36 MRSA §1102, sub-§4, as amended by PL 1999, c. 731, Pt. Y, §1, is further amended to read:

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least \$2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee of the land.

Gross income as used in this section includes the value of commodities produced for consumption by the farm household. Any applicant for assessment under this subchapter bears the burden of proof as to the applicant's qualification.

Sec. 2. 36 MRSA §1122 is enacted to read:

§ 1122. Reimbursement for farmland classified under this subchapter

1. Calculation of reimbursement. The State Tax Assessor shall determine annually the amount of acreage in each municipality that is classified as farmland and taxed in accordance with this subchapter. A municipality is entitled to annual payments distributed in accordance with this section from money appropriated by the Legislature if the municipality submits an annual return in accordance with section 383 and if the municipality achieves the minimum assessment ratio established in section 327. The State Tax Assessor shall pay any municipal claim found to be in satisfactory form by August 1st of the year following the submission of the annual return. The municipal reimbursement appropriation is calculated on the basis of 90% of the per acre tax revenue lost as a result of this subchapter. For purposes of this section, the tax lost is the tax that would have been assessed, but for this subchapter, on the classified farmlands if they were assessed according to the unclassified farmland values used in the state valuation then in effect or according to the current local valuation on unclassified farmland, whichever is less, minus the tax that was actually assessed on the same lands in accordance with this subchapter and adjusted for the aggregate municipal savings in required educational costs attributable to reduced state valuation. A municipality that fails to achieve the minimum assessment ratio established in section 327 loses 10% of the reimbursement provided by this section for each one percentage point the minimum assessment ratio falls below the ratio established in section 327.

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

A. The State Tax Assessor shall distribute reimbursement under this section to each municipality in proportion to the product of the reduced farmland valuation of the municipality multiplied by the property tax burden of the municipality. For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Average value of unclassified farmland" means the per acre farmland valuations used in the state valuation then in effect or according to the current local valuation on unclassified farmland as determined for state valuation purposes, whichever is less.

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

(3) "Reduced farmland valuation" means the difference between the average value of unclassified farmland and the average value of classified farmland times the total number of acres classified as farmland under this subchapter.

(4) "Unclassified farmland" means acreage actively used for agricultural purposes that is not:

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

(b) A base lot; or

(c) Waste land.

Sec. 3. 36 MRSA §5219-DD is enacted to read:

§ 5219-DD. Credit for conservation or qualified conservation contribution of farmland

1. Credit. A taxpayer who has qualified for and claimed on the taxpayer's federal income tax return, under Section 170 of the Code, a charitable deduction for a gift of farmland for conservation or for a qualified conservation contribution donated after January 1, 2009 on a qualified real property interest in farmland located in this State may claim a credit against the tax imposed by this Part for the applicable

tax year in an amount equal to 15% of the total amount of the federal deduction attributable to the gift of farmland for conservation or to the qualified real property interest in farmland located in this State subject to the caps provided in subsection 6.

2. Carry-forward. If the amount of the credit under this section exceeds the maximum credit that may be used in any particular taxable year as provided in subsection 3 or 6, the excess credit may be carried forward to succeeding taxable years until all the credit is claimed.

3. Refundability. The credit provided by this section is refundable up to 20% of the amount of the total credit for which the taxpayer is eligible in a taxable year for the qualified conservation contribution of farmland.

4. Limitation. A gift or donation is eligible for a credit under this section only if it meets the requirements of rules adopted by the Commissioner of Agriculture, Food and Rural Resources under this subsection. The commissioner shall adopt rules, in consultation with the State Tax Assessor, by October 1, 2009. Rules adopted under this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

5. Qualified appraisal. The fair market value of a qualified donation made pursuant to this section must be substantiated by a qualified appraisal prepared by a qualified appraiser as defined under applicable federal law and regulations applicable to charitable contributions.

6. Maximum credit. The credit provided for in this section may not exceed \$250,000 for a return filed under chapter 817 or 819 or \$100,000 for other returns filed under this Part.

Sec. 4. Application. This Act applies to tax years beginning on or after January 1, 2009.

SUMMARY

This bill provides that amounts used to demonstrate eligibility under the farm and open space tax laws must be from the sale of agricultural products as defined in the Maine Revised Statutes, Title 7, section 152. It also provides for towns to be reimbursed 90% of the revenue lost for farmland classified under the farm and open space tax laws.

It also provides a transferable income tax credit for voluntary contributions of farmland for conservation and for conservation easements of farmland that qualify as charitable donations under the federal income tax. The credit is equal to 15% of the value of the donation up to \$250,000 for corporate donors and \$100,000 for other donors. The credit is refundable up to 20% per year.