Testimony of Tom Doak
Executive Director
Maine Woodland Owners
In Opposition to
LD 1150
An Act to Amend the Maine Tree Growth Tax Law to Encourage Public Access

Senator Chipman, Representative Tipping and members of the Joint Standing Committee on Taxation, my name is Tom Doak, Executive Director of the Maine Woodland Owners speaking today in opposition to LD 1150 "An Act To Amend the Maine Tree Growth Tax Law".

The Tree Growth Tax Law is the single most important tax law there is for Maine's small woodland owners (generally people owning between ten and a few hundred acres of land). The program values land at its current use; growing trees, instead of its development value. It works. In fact, we believe this program keeps more land as forestland, and undeveloped, than all the past land bond issues combined.

For thousands of small woodland owners in Maine, it is what allows them to keep land as forestland in an undeveloped state and producing the public benefits of wildlife habitat, clean water, outdoor recreation opportunities and wood for the forest products industry.

Facts about the Tree Growth Tax Law program

To qualify, and remain in the Tree Growth Tax Law program, a landowner must meet several initial and ongoing requirements. A landowner must:

1. Have at least ten forested acres capable of growing commercial forest products;

2. Agree not to develop or change the use of the property to a non-forest use;

3. Pay a professional forester, licensed in Maine, to prepare a management plan that meets the standards spelled out in statute;

4. Pay that forester to update that plan every ten years;

5. Pay a forester to certify that the land is being managed consistent with the forest management plan and submit that certification to the tax assessor every ten years;

6. Sign an attestation on initial enrollment in the program, and every ten years thereafter, that the primary use of the land is to grow trees to be harvested for commercial use;

7. The land is subject to an audit by the assessor at any time;

8. In return, land is taxed on its value to grow trees, not its development value.

Other provisions of the Tree Growth Tax Law program:

1. When the program was created in the early 1970s all parcels of 500 acres or more were required to enroll.

2. The program runs with the land. Upon sale or transfer of the property, the land remains covered by the program unless the new landowner removes the property and pays the penalties.

3. The landowner knows the terms when he or she enrolls, but once in the program, the terms can change and there is no “out clause” without substantial penalty.

4. The penalties for taking land out of the program are purposely high to keep people in the program. It is common for the penalty to be many, many times higher than the total reduction in taxes the landowner receives.

There have been repeated efforts to undermine this very important program. Those of you who were in the Legislature last session, and certainly those of you on this Committee, will remember multiple bills attempting to alter the program, including last year.

This Committee convened a group of interested parties (I served on that group) last session, chaired by the director of the School of Forest Resources and the University of Maine, to review the Tree Growth Tax Law, respond to answer specific questions requested by this Committee and report back last year - which we did in February of last year. While we did not specifically discuss access, the clear message from that review, which included numerous meetings over several months, a public comment session and multiple discussions before this Committee was that the program works well, does not need statutory changes, and should be left alone. By the way, I have counted at least 23 times the Tree Growth Tax Law has been modified since it was enacted in the early 1970s.

The proposal before you would be the biggest change ever made to the program. It would impact the more than 10,000 family woodland owners enrolled in the program; not a single one of them who got into the program believing they would be required to allow public access. There are landowners in 474 Maine communities enrolled in the Tree Growth Tax Law program, in addition to the lands in the unorganized territories.

The biggest fear of a woodland owner in the Tree Growth Tax Law is being trapped in the program and forced to comply with a change that has nothing to do with the intent of the law, one they never agreed to, and in some cases, cannot legally comply with.

Remember that the landowner knows the rules when enrolling land in the program. But once in, the State can change those rules at any time. It is not simply a case of the landowner say ok, let me out. The statute and the Maine Constitution requires a penalty to be assessed whenever land is removed from the program. Depending upon the value of the parcel, the penalty can be thousands of dollars.

In addition to landowner preference, there are many good reasons to restrict access or types of recreational use. Landowners protect special sites, environmentally sensitive areas, high public use area where some uses are incompatible. There are also summer boys and girls camps with their woodland in the program. And sometimes there are deed restrictions or conservation easements, on private land or land trust properties enrolled in the program that legally restrict recreational use and activities.

Even on most state owned lands there are policies restricting certain recreational activities.

There are three other current use taxations programs that involve private land: Farmland, Open Space and Working Waterfront. None of these require public access.

The Tree Growth Tax Law is a contract: a landowner agrees not to develop the property and to follow a management plan prepared by a licensed professional forester. In return, the State agrees to value the land for tax purposes based on its current use as forestland and not its ability to grow houses and shopping centers. Landowners who enrolled in the Tree Growth Tax Law program never signed up to guarantee public access. The State should not change the rules of the contract particularly to add requirements that have nothing to do with the program.

We strongly oppose this legislation.