

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1406

S.P. 495

In Senate, March 22, 2005

An Act To Preserve Public Access and Job Opportunities in the North Woods

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COWGER of Kennebec.
Cosponsored by Representative PIOTTI of Unity and
Senator: NUTTING of Androscoggin, Representatives: FLOOD of Winthrop, JENNINGS of
Leeds, KAELIN of Winterport, KOFFMAN of Bar Harbor, PINEAU of Jay, SAVIELLO of
Wilton, SMITH of Monmouth.

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

4 **Sec. 1. 5 MRSA Pt. 15-C is enacted to read:**

6 **PART 15-C**

8 **MAINE WOODS**

10 **CHAPTER 357**

12 **MAINE WOODS BOARD**

14 **SUBCHAPTER 1**

16 **GENERAL PROVISIONS**

18 **§6401. Short title**

20 This chapter may be known and cited as "the Maine Woods Act."

22 **§6402. Findings**

24 The Legislature finds that forestry is an integral part of
26 the economy and culture of the State and that the forestry
28 industry has made its land available for public recreational use,
30 which has given rise to the well-recognized tradition of
32 high-quality outdoor recreational opportunities in this State.
34 The Legislature recognizes the importance of sustainable forestry
practices in maintaining the Maine woods for both forest products
production and public access and recreation. The Legislature
recognizes the State's obligation to assist in the maintenance of
the productive, working forest to support both the forest
products industry and public access and recreation in the Maine
woods.

36 **§6403. Definitions**

38 As used in this chapter, unless the context indicates
40 otherwise, the following terms have the following meanings.

42 1. Act. "Act" means the Maine Woods Act.

44 2. Appraised value. "Appraised value" means the fair market
46 value of property without the consideration of the effect of
dedication or other restrictions related to preservation.

48 3. Board. "Board" means the Maine Woods Board as
established in section 6404.

2 4. Bonds. "Bonds" means bonds or securities of the board
issued pursuant to this Act.

4 5. Cooperating entities. "Cooperating entities" means
those private nonprofit organizations, municipal conservation
6 commissions, local governments, federal agencies or other bodies
designated by the board under section 6407 to assist the State in
8 the acquisition or management of lands.

10 6. Fund. "Fund" means the Maine Woods Fund as established
in section 6411.

12 7. Holder of securities or holder. "Holder of securities"
or "holder," when used with reference to securities of the board,
14 means a person who is the bearer of outstanding securities of the
board registered to bearer or not registered or the registered
16 owner of outstanding securities of the board that at the time of
registration are registered other than to bearer.
18

20 8. Matching funds. "Matching funds" means any combination
of public and private funds used in conjunction with the fund for
22 the purpose of this chapter, including, but not limited to:
private contributions of cash or securities; money from municipal
24 or other public agencies; money from a federal matching program,
subject to the limitations of applicable federal and state laws,
26 in an amount authorized by the federal program; contributions of
real property or interest in real property that serves the
28 acquisition needs of the State as determined by the board;
in-kind contributions; or any combination of those.
30 Contributions of land or interest in land must be valued for
purposes of this section in the amount of their appraised value.
32

34 9. Notes. "Notes" means notes of the board issued pursuant
to this Act.

36 10. Project, projects or part of any project. "Project,
projects or part of any project" means the acquisition,
38 improvement or management of real or personal property to carry
out the purposes of this Act.
40

42 11. Securities. "Securities" means bonds, notes or other
evidences of indebtedness.

44 12. Stewardship account. "Stewardship account" means an
account held separate and apart from all other money, funds and
46 accounts of a state agency for the purposes of management of land
owned in fee or less-than-fee simple meeting the criteria
48 established in section 6406, subsection 1.

2 13. Sustainable forestry. "Sustainable forestry" means a
3 practice that is ecologically viable, economically feasible and
4 socially desirable.

6 §6404. Maine Woods Board; members; compensation

8 1. Establishment; membership. The Maine Woods Board is
9 established as a body corporate and politic and a public
10 instrumentality of the State. The exercise by the board of
11 powers conferred by this chapter is considered to be the
12 performance of essential governmental functions. The board
13 consists of 7 members, of whom 3 are private citizens and 4 are
14 ex officio members. The ex officio members are the Commissioner
15 of Conservation, the Commissioner of Inland Fisheries and
16 Wildlife, the Treasurer of State and the Attorney General.

18 2. Appointments. The 3 members who are private citizens
19 are appointed by the Governor, subject to review by the joint
20 standing committee of the Legislature having jurisdiction over
21 conservation matters and subject to confirmation by the
22 Legislature.

24 3. Qualifications. The 3 members who are private citizens
25 must be selected for their demonstrated commitment to sustainable
26 forestry or public access and recreation. At least one of those
27 members must have expertise in forestry practices and at least
28 one in conservation. Appointments must provide a broad
29 geographic representation of the State.

30 4. Terms. The members who are private citizens must be
31 appointed to staggered terms of 4 years; except that of the
32 initial appointments, one member must be appointed for a 2-year
33 term, one member for a 3-year term and one member for a 4-year
34 term. Members who are private citizens may not serve more than 2
35 consecutive 4-year terms. Each member of the board serves until
36 that member's successor is appointed and qualified. When a
37 vacancy occurs in the membership, the Governor shall appoint a
38 replacement member for the remainder of that term.

40 5. Oath. Each member of the board, before commencing the
41 duties of the office, shall take an oath to administer the duties
42 of the office faithfully and impartially. That oath must be
43 filed in the office of the Secretary of State.

44 6. Officers; quorum. The board shall elect a chair and a
45 vice-chair from its membership. The board may have a secretary
46 and a treasurer, who may be members of the board. Three members
47 of the board constitute a quorum, which is necessary for any
48 action taken by the board. A vacancy in the membership of the

2 board does not impair the right of a quorum to exercise the
rights and perform the duties of the board.

4 7. Compensation. Each member of the board is entitled to
6 compensation in accordance with chapter 379. Each member of the
8 board must be indemnified by the board against expenses incurred
10 by that member in connection with the defense of an action or
proceeding in which the member is made a party by reason of being
or having been a member of the board and against any final
judgment rendered against the member in that action or proceeding.

12 **§6405. Powers**

14 In order to carry out the purposes of this Act, the board
16 has powers with respect to a project, projects or part of any
18 project and other powers that may be necessary for the
performance of the following:

20 1. Perpetual succession. To have perpetual succession as a
22 body politic and corporate and as a public instrumentality of the
State;

24 2. Power to sue and be sued. To sue or initiate or appear
26 in any proceeding, and the board may be sued on its written
contracts or in accordance with chapter 375; Title 1, section
409; or Title 14, chapter 741;

28 3. Official seal. To adopt and have an official seal and
30 alter the seal at pleasure;

32 4. Bylaws; rules. To adopt bylaws and, pursuant to chapter
34 375, adopt any rule necessary or useful for carrying out any of
its powers or duties pursuant to this Act. Rules adopted by the
36 board are routine technical rules pursuant to chapter 375,
subchapter 2-A, unless otherwise expressly designated;

38 5. Acquire real or personal property. To acquire real or
40 personal property or any interest in real or personal property,
including rights or easements, on either a temporary or long-term
42 basis by gift, purchase, transfer, foreclosure, lease or
otherwise, to improve, hold, sell with or without public bidding,
44 assign, lease, rent, encumber, mortgage or otherwise dispose of
any real or personal property or any interest in real or personal
46 property, or mortgage interests owned or in its control, custody
or possession and release or relinquish any right, title claim,
48 lien, interest, easement or demand, however acquired, including
threat of foreclosure;

2 6. Prepare and plan projects and facilities. To prepare or
3 cause to be prepared plans, specifications, designs and estimates
4 of costs for the project, projects or part of any project and
5 attendant facilities and from time to time to modify or cause to
6 be modified those plans, specifications, designs or estimates;

7 7. Provide for financing or refinancing. To provide
8 financing for any project, projects or part of any project or to
9 provide for refinancing of existing indebtedness and for the
10 financing of the project, projects or part of any project and of
11 other necessary and usual attendant facilities, to borrow money
12 and to issue negotiable securities and to provide for the rights
13 of the holders of those securities;

14 8. Make and execute contracts and other financial
15 documents. To make and execute contracts and all other
16 instruments, including trust agreements and other financial
17 documents, and enter into such transactions as is necessary or
18 convenient for the exercise of its powers and functions under
19 this Act;

20 9. Agreements; acceptances; contributions; aid; grants. To
21 enter into agreements with and accept loans, aid, contributions
22 and grants from and the cooperation or assistance of the United
23 States, of any agency of the United States or the State or any
24 agency or governmental subdivision of the State for the purposes
25 of this Act, including, but not limited to, the development,
26 maintenance, operation and financing of any project, projects or
27 part of any project and to do whatever is necessary in order to
28 avail itself of those loans, aid, contributions, grants and
29 cooperation;

30 10. Agreements or other transactions. To enter into
31 agreements or other transactions with any person to effectuate
32 the purposes of this Act, including construction agreements,
33 purchase or acquisition agreements and loan or lease agreements
34 with leasing corporations or other financial intermediaries;

35 11. Accept aid or contributions. To receive and accept aid
36 or contributions from any source of money, property, labor or
37 other things of value, to be held, used and applied to carry out
38 the purposes of this Act, subject to the conditions under which
39 those grants and contributions may be made, including, but not
40 limited to, gifts or grants from any department or agency of the
41 United States or the State for any purpose consistent with this
42 Act;

43 12. Insurance. To procure insurance against any loss in
44 connection with its securities and its property and other assets
45 in such amounts and from such insurers as it considers desirable;
46

2 **13. Modification of contract, lease, indenture or**
3 **agreement.** To the extent permitted under its contract with the
4 holders of securities, to consent to any modification of any
5 contract, lease, indenture or agreement of any kind to which the
6 board is a party;

8 **14. Manage or operate real and personal property.** To
9 manage or operate or cause to be managed or operated real and
10 personal property, take assignments of leases and rentals or take
11 any other action necessary or incidental to the performance of
12 its duties under this Act;

14 **15. Secured or unsecured loans.** To make secured or
15 unsecured loans for the purpose of providing temporary or
16 permanent financing or refinancing of all or part of the cost of
17 any project, projects or part of any project, including the
18 refunding of any outstanding obligations, mortgages or advances
19 issued, made or given by any person for the cost of a project,
20 projects or part of any project;

22 **16. Investments.** Except as otherwise provided in this Act,
23 to invest any funds not needed for immediate use, including any
24 funds held in reserve, in property or securities in which
25 fiduciaries in the State may legally invest funds;

26 **17. Appearances.** To appear in its own behalf before
27 boards, commissions, departments or agencies of municipal
28 government, State Government or Federal Government;

30 **18. Executive director; other employees.** To employ an
31 executive director, consulting foresters, attorneys, accountants,
32 financial experts and such other employees and agents as may be
33 necessary in its judgment;

36 **19. All acts granted or implied.** To do any act necessary
37 or convenient to exercise the powers granted in this Act or
38 reasonably inferred from this Act;

40 **20. Contract with Maine Municipal Bond Bank.** In carrying
41 out its powers under this section, the board shall, whenever
42 possible, contract with the Maine Municipal Bond Bank for
43 necessary clerical and administrative services, including use of
44 the Executive Director of the Maine Municipal Bond Bank as the
45 executive director, secretary and treasurer of the board;

46 **21. Accept federal funds, gifts and contributions.** To
47 accept federal funds, gifts and contributions, including, without
48 limitation, money, annuities and investments or anything of
49 value, for the purposes set forth in section 6434; and
50

2 22. Delegation to Bureau of General Services. To delegate
3 those powers that the board may specifically exercise, or cause
4 to be exercised, pursuant to subsection 5, 6 or 14 to the
5 Department of Administrative and Financial Services, Bureau of
6 General Services. The board may revoke such a delegation upon
7 the failure of the Bureau of General Services to discharge the
8 delegated powers. The Bureau of General Services may provide to
9 the board an indemnity and hold-harmless agreement with respect
10 to a delegation.

12 **§6406. Board responsibilities; acquisitions and management;**
13 **assistance**

14 1. Acquisition and management. The board shall acquire and
15 manage lands using sustainable forestry practices so that the
16 land:

17 A. Produces income to contribute to sustaining the board's
18 responsibilities; and

19 B. To the extent possible considering paragraph A, is
20 available for public access and recreation.

21 2. Board responsibilities. The board shall:

22 A. Complete an assessment of the State's needs concerning
23 lands devoted to sustainable forestry and lands available
24 for public access and recreation. The board shall develop a
25 strategy and guidelines based on that assessment for use in
26 allocating the proceeds of the fund to ensure that the State
27 continues to have a viable part of its economy based on
28 sustainable forestry. Both the assessment and the
29 development of a strategy and guidelines must be conducted
30 with opportunities for participation by interested state
31 agencies and the public;

32 B. Develop a management plan to manage the woods in order
33 to maintain the woods for sustainable forestry practices and
34 public access and recreation;

35 C. Receive and review funding requests from state agencies
36 and cooperating entities for acquisition projects that meet
37 guidelines under paragraph A;

38 D. In accordance with the strategy and guidelines developed
39 under paragraph A, authorize distribution of proceeds from
40 the fund for acquisitions of property or interests in
41 property;

2 E. Ensure that acquisition of land and management of land
4 by the board do not result in a decrease in property taxes
6 collected by the local taxing authority by providing
8 payments on the land in lieu of taxes to that taxing
10 authority; and

12 F. On January 31, 2007 and on January 31st every 2 years
14 thereafter, report to the joint standing committee of the
16 Legislature having jurisdiction over conservation matters on
18 expenditures from the fund and revisions to the strategies
20 and guidelines set out in paragraph A.

22 3. Assistance. The Department of Conservation; the
24 Department of Inland Fisheries and Wildlife; the Department of
26 Transportation; the Department of Agriculture, Food and Rural
28 Resources; the Executive Department, State Planning Office; and
30 all other state agencies shall provide staff support and
32 assistance necessary to fulfill the objectives of this chapter.
34 If agency assistance is not available, consultants may be hired
36 from the proceeds of the fund to assist the board in carrying out
38 its responsibilities.

40 **§6407. Acquisition; title; management**

42 1. Uses of funds. The board may use the fund to acquire
44 real property with both fee and less-than-fee simple interest,
46 including, but not limited to, conservation easements, access
48 easements, scenic easements, other permanent interests in land
50 and long-term leases of at least 99 years, if those acquisitions
are primarily lands meeting the criteria set forth in this
chapter.

2. Title. Title to lands acquired pursuant to this chapter
must be vested solely in the State. The deed to land acquired
pursuant to this chapter must specify that the property be used
for timber management and harvesting. Management
responsibilities for the acquired lands may be contracted by the
board to cooperating entities, subject to appropriate lease
arrangements, upon the approval of the board.

3. Payments. Payments from the fund may be made to a
cooperating entity for qualifying lands acquired on behalf of the
State, if the board has issued to the cooperating entity a letter
of intent requesting assistance in the acquisition. Upon
submission to the board of a cooperating entity's direct expenses
for acquisition and related costs of an authorized acquisition,
the board shall authorize payment of those expenses, as long as
the total of all expenses does not exceed the appraised value of
the acquired property. Expenses must be paid at intervals during
the acquisition process, as determined by the board.

2 4. Legislative approval. Land acquired under this chapter
3 may not be sold or used for purposes other than those stated in
4 this chapter unless approved by a 2/3 majority of the
5 Legislature. Deed restrictions as required under subsection 2
6 may not be changed by the Legislature.

8 **§6408. Nominations**

10 Prior to taking an action to designate land for negotiation
11 for acquisition, the board shall send by certified mail or
12 deliver a notice of this intention to the owner or owners of land
13 within the area proposed by the board for acquisition, as the
14 identity and address of such owner or owners is shown on the tax
15 maps or other tax records of the municipality in which the land
16 is located. If the land is located within the unorganized
17 territory, notice must be sent to the owner or owners as shown on
18 the tax maps or other tax records of the State Tax Assessor.
19 After the completion of negotiations, the board shall publish a
20 notice of its intent to designate land for acquisition in a
21 newspaper or newspapers of general circulation that identifies
22 the land proposed by the board for acquisition and that notifies
23 the residents of the area that the board will accept public
24 comments on the proposed acquisition.

26 Any owner of land that has been nominated for acquisition
27 and is subject to the notice requirements of this section may
28 submit a properly sworn affidavit to the board indicating the
29 owner's unwillingness to sell. The affidavit is notice to the
30 board that continued evaluation of that land is inappropriate and
31 the board may not consider that land for acquisition.

32 **§6409. Acquisition criteria**

34 1. Determination of state significance. In determining
35 whether a proposed acquisition may be funded, in full or in part,
36 by the fund, the board shall consider whether the site is of
37 state significance and:

40 A. Is appropriate for the practice of sustainable forestry;
41 and

42 B. Provides public access, nonmotorized or motorized, to
43 recreation opportunities and natural resources.

44 2. Nonqualifying expenditures. The board may not fund
45 facilities for organized recreational activities, including, but
46 not limited to, ballparks, tennis courts or playgrounds.

47 **§6410. Data sharing**

2 If the board transfers to any local or federal agency
4 written information acquired under this chapter concerning any
land, the board shall notify the landowner of the transfer by
6 certified mail.

8 **§6411. Maine Woods Fund**

10 1. Fund established. There is established the Maine Woods
12 Fund, which is administered by the board. The fund consists of
14 the proceeds from the sale of any bonds authorized for the
16 purposes set forth in subsection 2 and any funds received as
18 contributions from private and public sources for those
20 purposes. The fund must be held separate and apart from all
other money, funds and accounts. Eligible investment earnings
credited to the assets of the fund become part of the assets of
that fund. Any balance remaining in the fund at the end of any
fiscal year may not lapse but must be carried forward to the next
fiscal year.

22 2. Fund proceeds. The proceeds of the fund may be applied
and expended to:

24 A. Acquire property or an interest in property that is
26 determined by the board appropriate for sustainable forestry
practices and public access and recreation;

28 B. Fund minor capital improvements on lands acquired by
30 proceeds from the fund to improve accessibility, as long as
32 these improvements do not exceed 5% of the appraised value
of the acquired property;

34 C. Manage lands for the purposes set forth in this chapter;
and

36 D. Pay the expenses of the board in carrying out its
38 responsibilities.

40 3. Payments. Pursuant to section 6406, subsection 2,
42 paragraph E, payments in lieu of local property tax must be made
44 to the local municipality or, in the case of land in unorganized
territory, to the State Tax Assessor. The tax is to be
determined for equivalent land in timber production.

46 **§6412. Leasing or renting property by board**

48 For the purposes of this chapter, the board may lease, rent,
50 assign or otherwise dispose of a project, projects or part of any
52 project only to the State, an agency, instrumentality or
department of the State or branch of State Government or any
related agency of state, county or local government. Revenues
derived by the board from any lease or rental agreement must be

2 used, as necessary, to pay the principal, interest and other
3 associated costs on or with respect to any securities issued
4 pursuant to this chapter.

6 SUBCHAPTER 2

8 SECURITIES

10 §6421. Issuance of securities

12 1. Resolution for issuance of securities. The board may
13 provide by resolution, at one time or from time to time, for the
14 issuance and sale of securities in the board's own name for the
15 purpose of paying the cost of any project, projects or part of
16 any project or the refinancing of existing indebtedness approved
17 by the board. Securities of the board may not be authorized and
18 issued except pursuant to a resolution adopted by the vote of not
19 less than a majority of the members of the board. The resolution
20 must describe the general purpose or purposes for which the
21 securities are to be issued and state the maximum principal
22 amount of the securities proposed to be issued. Securities may
23 not be issued by the board without a majority vote of approval in
24 each House of the Legislature.

26 2. Limitation on securities issued. The board may not
27 issue securities in excess of \$200,000,000 outstanding at any one
28 time, except for the issuance of revenue refunding securities
29 authorized by section 6425. The amount of securities that may be
30 outstanding in the name of the board may be increased by the
31 Legislature upon a showing by the board that its available
32 revenues are sufficient to support additional issuance of
33 securities and that the issuance of securities will not
34 materially impair the credit standing of the board, the
35 investment status of securities issued by the board or the
36 ability of the board to fulfill its commitments to holders of
37 securities. Nothing in this chapter may be construed to
38 authorize the board to issue securities to fund the construction,
39 reconstruction, purchase or acquisition of facilities without a
40 majority vote of approval in each House of the Legislature.

42 3. After issuance. After issuance, all securities of the
43 board must be conclusively presumed to be fully and duly
44 authorized and issued under the laws of the State, and any person
45 or governmental unit is estopped from questioning their
46 authorization, sale, issuance, execution or delivery by the board.

48 4. Form of securities. The securities of each issue must
49 be dated and mature at such time or times not exceeding 40 years
50 from their date or dates and bear interest at such rate or rates,
including variable, floating or adjustable rates, as may be

2 authorized by the board. These securities may be made
3 redeemable, callable or subject to purchase or tender before
4 maturity, at such price or prices and under such terms and
5 conditions as may be provided for by the board prior to the
6 issuance of the securities. The board shall determine the form
7 of the securities, including interest coupons to be attached to
8 the securities, if any, and the manner of execution of the
9 securities and shall fix the denomination or denominations of the
10 securities and the place or places of payment of principal and
11 interest, which may be at any bank, national banking association
12 or trust company within or without the State. Securities must be
13 executed in the name of the board by the manual or facsimile
14 signature of such official or officials as may be authorized in
15 the resolution to execute those securities. Coupons, if any,
16 attached to securities, must be executed with the facsimile
17 signature of the official or officials designated in the
18 resolution. If any official whose signature or a facsimile of
19 whose signature appears on any securities or coupons ceases to be
20 an official before the delivery of the securities, the signature
21 or the facsimile is valid and sufficient for all purposes, with
22 the same effect as if the official had remained in office until
23 the delivery.

24 Notwithstanding any of the other provisions of this Act or any
25 recitals in any securities issued under this Act, all such
26 securities are negotiable instruments issued under the laws of
27 the State. The securities may be issued in coupon or registered
28 form, or both, as the board may determine. Provisions may be
29 made for the registration of any coupon securities as to
30 principal alone and as to both principal and interest and for the
31 reconversion into coupon securities of any securities registered
32 as to both principal and interest. The board may sell the
33 securities in such manner, either at public or private sale, and
34 for such price as it determines is in the best interests of the
35 board.

36
37 5. Award and sell securities. The power to fix the date of
38 sale of any securities, to receive bids or proposals, to award
39 and sell any securities, to set the terms and provisions of any
40 securities and to take all other action necessary to sell and
41 deliver any securities may be delegated to any officer of the
42 board by a majority of the members of the board.

43
44 6. Proceeds of securities. The proceeds of the securities
45 of each issue must be used solely for the purpose or purposes for
46 which the securities were authorized and disbursed in such manner
47 and under such restrictions as the board may provide in the
48 resolution authorizing the issuance of the securities or in the
49 trust agreement securing the securities. If the proceeds of the
50 securities, by error of estimates or otherwise, are less than the

2 cost, additional securities, in like manner, may be issued to
4 provide the amount of the deficiency and, unless otherwise
6 provided in the authorizing resolution or in the trust agreement
8 securing the securities, are deemed to be of the same issue and
10 are entitled to payment from the same fund without preference or
12 priority of the securities first issued for the same purpose.
14 The resolution providing for the issuance of securities and any
16 trust agreement securing the securities may contain such
18 limitations upon the issuance of additional securities as the
20 board may consider proper. Additional securities must be issued
22 under such restrictions and limitations as may be prescribed by
24 the resolution or trust agreement. The board may provide for the
26 replacement of any securities that become mutilated, destroyed,
28 stolen or lost. Securities may be issued under this Act without
30 the board's obtaining the consent of any department, division,
32 commission, board, bureau or agency of the State and without any
34 other proceedings or conditions other than those proceedings or
36 conditions that are specifically required by this Act.

20 7. Use of proceeds. The proceeds of the securities of each
22 issue must be used for the payment of all or part of the cost of
24 the project, projects or part of any project for which they are
26 authorized and must be disbursed in such manner and under such
28 restrictions as are provided in the resolution authorizing the
30 issuance of the bonds or in the trust agreement securing the
32 securities. Proceeds may be used to pay all costs incurred in
34 issuing the securities and interest on the securities for such
36 time as may be authorized by the board, subject to the provisions
38 of this Act, and to establish reserve funds and sinking funds for
40 the securities.

32 8. Interim or temporary securities. Prior to the
34 preparation of definitive securities, the board may, under like
36 restrictions, issue interim or temporary securities with or
38 without coupons, exchangeable for definitive securities when
40 those securities are executed and are available for delivery.

38 9. Securing of principal and interest. The principal of
40 and interest on any securities issued by the board, together with
42 any related costs and expenses, must be secured by a pledge of
44 the revenues and receipts derived by the board from the project,
46 projects or part of any project financed and from such other
48 revenues of the board as may be specially pledged by the board
50 and may be secured by a mortgage covering all or any part of the
project, projects or part of any project, including any
enlargements of and additions to the project, projects or part of
any project made. The resolution under which the securities may
be issued and any mortgage may contain any agreements and
provisions respecting the maintenance of the project, projects or
part of any project covered; the fixing and collection of rents,

2 fees or other charges; the creation and maintenance of special
4 funds from the revenues and any reserve funds; and the rights and
6 remedies available in the event of default. Those agreements and
8 provisions must be as the board considers advisable and not in
10 conflict with this Act. Each pledge, agreement and mortgage made
12 for the benefit or security of any of the holders of securities
14 continues in effect until the principal of and interest and any
16 related costs and expenses on the securities for the benefit for
18 which the securities were made have been fully paid.

20 **§6422. Pledges and covenants: trust agreement**

22 In the discretion of the board, any securities issued under
24 this Act may be secured by a trust agreement by and between the
26 board and a corporate trustee, which may be any trust company or
28 bank or national banking association having the powers of a trust
30 company within or without the State. The trust agreement or the
32 resolution providing for the issuance of the securities may
34 pledge or assign all or any portion of the revenues of the board
36 or any project, projects or part of any project of the board and
38 may contain such provisions for protecting and enforcing the
40 rights and remedies of the holders of securities as may be
42 reasonable and proper and not in violation of law. The
44 provisions may include covenants setting forth the duties of the
46 board in relation to: the acquisition of property; the
48 construction, reconstruction, renewal, replacement and insurance
50 of any project, projects or part of any project in connection
with which the securities have been authorized; the fees, charges
or rents to be charged or other payments to be made for the use
or payment for property; and the custody, safeguarding and
application of all money. It is lawful for any bank or trust
company incorporated under the laws of the State that may act as
depository of the proceeds of securities or of revenues of the
board or any project, projects or part of any project to furnish
such indemnifying bonds or to pledge such instruments as may be
required by the board. Any such trust agreement may set forth
the rights and remedies of the holders of the securities and of
the trustee and may restrict the individual right of action by
holders of securities.

To secure the payment of the securities, a trust agreement
or other financial document may mortgage or assign the mortgage
of any project, projects or part of any project and may create a
lien upon any or all of the revenues of the board or any project,
projects or part of any project or upon any or all of the real or
personal property constituting a part of the project, projects or
part of any project. The trust agreement, financial document or
resolution may contain such other provisions as the board may
consider reasonable and proper for the security of the holders of
securities.

2 A trust agreement or financial document containing a
4 mortgage or assignment of a mortgage with respect to a project,
6 projects or a part of any project may authorize the trustee or
8 mortgagee in the event of a default as defined, with respect to
10 the securities issued to provide for the costs of the project,
12 projects or a part of any project, to take possession of all or
14 any part of the mortgaged property constituting the project,
16 projects or a part of any project; to hold, operate and manage
18 the project, projects or a part of any project; and, with or
20 without such taking of possession, to sell or from time to time
22 to lease the project, projects or a part of any project. A
24 judgment for possession may be without conditions, and such a
26 sale or lease may not be subject to any right to redeem the
 mortgaged property. Upon satisfaction at any time of the
 obligations secured by the mortgage with respect to the project,
 projects or part of any project, which is deemed to include all
 applicable fees and expenses, any surplus proceeds from the
 operation, sale or lease of the project, projects or part of any
 project must be paid to the mortgagor of the project, projects or
 part of any project or to those claiming under the mortgagee,
 and, subject to any sale or lease under this paragraph, the
 mortgaged property with respect to the project, projects or part
 of any project reverts or must be returned to the mortgagor or to
 those claiming under the mortgagee.

28 All expenses incurred in carrying out the trust agreement,
30 financial document or resolution may be treated as a part of the
32 cost of the operation of a project, projects or part of any
34 project. All pledges of revenues under this Act are valid and
36 binding from the time when the pledge was made. The revenues
38 pledged and received by the board are immediately subject to the
 lien of the pledges without any physical delivery or further
 action under the Uniform Commercial Code. The lien of the
 pledges is valid and binding as against all parties having claims
 of any kind in tort or contract or otherwise against the board
 irrespective of whether the parties have notice of the lien.

40 Any resolution or resolutions authorizing any securities or
42 any issue of securities or any trust agreement with respect to
44 any securities may contain provisions that are a part of the
 contract or contracts with the holders of the securities in
 relation to:

46 1. Pledging of full faith and credit of board. Pledging
48 the full faith and credit of the board or of all or any specified
50 revenues or assets of the board to secure the payment of the
 securities or of any issue of securities, subject to such
 agreements with holders of securities as may then exist;

2 **2. Pledging unencumbered revenues or assets of board.**
3 Pledging all or any part of the unencumbered revenues or assets
4 of securities, subject to such agreements with holders of
5 securities as may then exist;

6
7 **3. Setting aside reserves or sinking funds.** Setting aside
8 reserves or sinking funds and the regulation and disposition of
9 the funds;

10
11 **4. Limitations on use of proceeds of sale of securities.**
12 Limitations on the use to which the proceeds of the sale of
13 securities may be applied and pledging those proceeds to secure
14 the payment of the securities or of any issue of securities;

15
16 **5. Limitations on issuance of additional securities.**
17 Limitations on the issuance of additional securities, the terms
18 upon which additional securities may be issued and secured and
19 refunding outstanding or other securities;

20
21 **6. Amendment or abrogation of contract terms; procedure.**
22 The procedure, if any, by which the terms of any contract with
23 holders of securities may be amended or abrogated, the amount to
24 which the holders of securities must consent and how that consent
25 may be given;

26
27 **7. Limitations on money expended by authority for**
28 **expenses.** Limitations on the amount of money to be expended by
29 the board for operating, administrative or other expenses of the
30 board;

31
32 **8. Vesting of rights in trustee; powers and duties in**
33 **trust.** Vesting a trustee or trustees with such property, rights,
34 powers and duties in trust as the board may determine, which may
35 include any or all of the rights, powers and duties of the
36 trustee appointed for the holders of securities issued pursuant
37 to this Act;

38
39 **9. Default.** Defining the acts or omissions to act that
40 constitute a default in the obligations and duties of the board
41 to the holders of the securities and providing for the rights and
42 remedies of the holders of the securities in the event of that
43 default, including as a matter of right the appointment of a
44 receiver, but only if the rights and remedies are not
45 inconsistent with the general laws of the State and this Act; and

46
47 **10. Other matters.** Matters other than those stated in this
48 section that in any way affect the security or protection of the
49 holders of the securities.
50

2 **§6423. Trust funds**

4 All money received by the board is considered trust funds to
6 be held and applied solely as provided in this Act. An officer
8 to whom or a bank, trust company or other fiscal agent or trustee
10 to which that money is paid shall act as trustee of the money and
 shall hold and apply the money for the purposes of this Act,
 subject to such rules as may be adopted by the board pursuant to
 this Act and as the resolution or trust agreement may provide.

12 **§6424. Remedies**

14 A holder of securities issued under this Act or of any of
16 the coupons appertaining to the securities, and the trustee under
18 any resolution or trust agreement, except to the extent the
20 rights given may be restricted by the resolution authorizing the
22 issuance of the securities or the trust agreement or an
24 applicable financial document, may, either by action, mandamus or
26 other proceeding, protect and enforce all rights under the laws
28 of the State or granted under this Act or under the resolution,
30 financial document or trust agreement, including the appointment
 of a receiver, and may enforce and compel the performance of all
 duties required by this Act or by the resolution, financial
 document or trust agreement to be performed by the board,
 including the collecting of rates, rents, fees and charges for
 the use of any of its facilities for any project, projects or
 part of any project. Any such suit, action or proceeding must be
 brought for the benefit of all the holders of the securities and
 coupons, subject to the terms of any such resolution, trust
 agreement or financial document.

32 **§6425. Revenue refunding securities**

34 The board may provide by resolution for the issuance of
36 revenue refunding securities of the board for the purpose of
38 refunding any obligations of the board or for the purpose of
40 refinancing of existing indebtedness then outstanding that has
42 been issued or incurred under this Act or otherwise, including
44 the payment of any redemption premium and any interest accrued or
46 to accrue to the date of redemption of those obligations and, if
48 considered advisable by the board, for the additional purpose of
50 construction or enabling the construction of improvements,
 extensions, enlargements or additions of the project, projects or
 part of any project in connection with which the obligations to
 be refunded were issued. The board may provide by resolution for
 the issuance of securities of the board for the combined purpose
 of refunding any obligations or revenue refunding securities then
 outstanding or for the purpose of refinancing of existing
 indebtedness that has been issued or incurred under this Act, or
 otherwise, including the payment of any redemption premium on

2 that indebtedness and any interest accrued or to accrue to the
4 date of redemption of the obligations and paying all or any part
6 of the cost of selling the securities or acquiring or
8 constructing or enabling the acquisition or construction of any
10 additional project, projects or part of any project or any
12 improvements, extensions, enlargements or additions of any
14 project, projects or part of any project. The issuance of the
16 securities, the maturities and other details of the securities,
18 the rights and remedies of the holders of the securities and the
20 rights, powers, privileges, duties and obligations of the board
22 with respect to the securities are governed by this Act.

24 **§6426. Tax exemption**

26 Securities issued under this Act constitute a proper public
28 purpose and those securities, their transfer and the income from
30 the securities, including any profits made on the sale of the
32 securities, are exempt from taxation within the State.

34 **§6427. Governmental functions**

36 The carrying out by the board of the powers and duties
38 conferred upon it by this Act is considered to be the performance
40 of essential functions.

42 **§6428. Liberal construction**

44 This Act, being necessary for the welfare of the State and
46 its inhabitants, must be liberally construed to effect its
48 purposes. To the extent of any conflict between this Act and any
50 other law, this Act must prevail, but the power and authority
52 granted by this Act must be considered to be in addition to and
54 not in derogation of the power and authority granted by any other
56 law.

58 **§6429. Securities as legal investment**

60 The securities of the board are legal investments in which
62 public officers and public bodies of the State and its political
64 subdivisions; municipalities and municipal subdivisions;
66 insurance companies and associations and other persons carrying
68 on an insurance business; banks, bankers, banking associations,
70 trust companies, savings banks and savings associations,
72 including savings and loan associations, building and loan
74 associations, investment companies and other persons carrying on
76 a banking business; administrators, guardians, executors,
78 trustees and other fiduciaries; other persons who are or may be
80 authorized to invest in bonds or other obligations of the

2 State, may properly and legally invest funds, including capital,
3 in the control of or belonging to those investors. The
4 securities are also, by this Act, made securities that may
5 properly and legally be deposited with and received by public
6 officers and bodies of the State or any agency or political
7 subdivision of the State and municipalities and public
8 corporations for any purpose for which the deposit of securities
9 of bonds or other obligations of the State may be authorized by
10 law.

11 **§6430. Conflicts**

12
13 A member of the board may not participate in any decision on
14 any contract entered into by the board under this Act if that
15 member has any interest, direct or indirect, in any firm,
16 partnership, corporation or association that may be party to the
17 contract. The interest must be disclosed to the board in writing
18 and must be set forth in the minutes of the board.

19 **§6431. Actions against board**

20
21 A member of the board, while acting within the scope of the
22 authority of this Act, may not be subject to any personal
23 liability resulting from the exercise of any of the board's
24 purposes or powers.

25 **§6432. Contract of State**

26
27 The State pledges and agrees with the holders of securities
28 that the State will not limit or alter the rights vested in the
29 board to acquire, construct, reconstruct, equip and operate a
30 project, projects or part of any project and related facilities;
31 to establish and collect fees, charges, rentals and other charges
32 referred to in this Act; and to fulfill the terms of any
33 agreements made with the holders of the securities. The State
34 also pledges and agrees that it will not impair the rights and
35 remedies of the holders of securities until the securities,
36 together with interest on securities, interest on any unpaid
37 installments on interest and all costs and expenses in connection
38 with any action or proceeding by or on behalf of the holders of
39 securities are fully met and discharged.

40 **§6433. Credit of State not pledged**

41
42 Securities issued under this Act do not constitute or create
43 any debt or debts, liability or liabilities on behalf of the
44 State or of any political subdivision of the State other than the
45 board or a loan of the credit of the State or a pledge of the
46 faith and credit of the State or of any political subdivision
47 other than the board, but are payable solely from the funds
48 provided for that payment. A security issued under this Act must
49
50

2 contain on its face a statement to the effect that neither the
3 State nor any political subdivision of the State is obligated to
4 pay the securities or the interest on the securities, except from
5 revenues of the board or the project, projects or part of any
6 project for which they are issued and that neither the faith and
7 credit nor the taxing power of the State or of any political
8 subdivision of the State is pledged to the payment of the
9 principal of or the interest on the securities. The issuance of
10 securities under this Act does not directly, indirectly or
11 contingently obligate the State or any political subdivision of
12 the State to levy or to pledge any form of taxation or to make
13 any appropriation for payment. Nothing contained in this section
14 may prevent or be construed to prevent the board from pledging
15 its full faith and credit to the payment of securities authorized
16 pursuant to this Act.

17 **§6434. Gifts and contributions**

18
19 The board may accept gifts and contributions as provided in
20 section 6405, subsection 21 for the purpose of acquiring or
21 managing a project, projects or part of any project. The board,
22 in accepting gifts of money, federal funds or other types of
23 income, shall place this money in a special account for the
24 purpose for which it is provided. The board may invest the money
25 as provided in this chapter, subject to any limitations imposed
26 by the donor.

27 **§6435. Continuing disclosure**

28
29 With respect to any securities of the board, the Treasurer
30 of State may enter into any agreement for the benefit of the
31 holders of securities of the board to provide annual financial
32 information with respect to the State in order to assist
33 underwriters of the securities of the board in complying with any
34 applicable regulation promulgated by the United States Securities
35 and Exchange Commission with respect to annual financial
36 information.

37
38
39 **SUMMARY**

40
41
42 This bill creates the Maine Woods Act and establishes the
43 Maine Woods Board as a public instrumentality of the State. The
44 board's central duty is to support sustainable forestry and
45 provide public access and recreational opportunities through the
46 acquisition and maintenance of forest lands. The board has
47 independent bonding authority to support the Maine Woods Fund, as
48 established in this bill.