

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

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Legislative Document

No. 958

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H.P. 617

House of Representatives, March 11, 2025

### **An Act to Prohibit Eminent Domain on Tribal Lands**

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Received by the Clerk of the House on March 6, 2025. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.  
Cosponsored by Senator MOORE of Washington and  
Representatives: CARUSO of Caratunk, DANA of the Passamaquoddy Tribe, DILL of Old  
Town, HENDERSON of Rumford, KUHN of Falmouth, MINGO of Calais, POIRIER of  
Skowhegan, SMITH of Palermo.

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

2 **PART A**

3 **Sec. A-1. 30 MRSA §6205**, as amended by PL 2021, c. 650, §§2 to 4 and affected  
4 by §13, is further amended to read:

5 **§6205. Indian territory**

6 **1. Passamaquoddy Indian territory.** Subject to subsections 3, 4 and 5, the following  
7 lands within the State are known as "the Passamaquoddy Indian territory":

8 A. The Passamaquoddy Indian Reservation;

9 B. The first 150,000 acres of land acquired by the secretary for the benefit of the  
10 Passamaquoddy Tribe from the following areas or lands to the extent that those lands  
11 are not held in common with any other person or entity and are certified by the secretary  
12 as held for the benefit of the Passamaquoddy Tribe:

13 The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.  
14 (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.;  
15 the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,  
16 B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,  
17 B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;  
18 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle  
19 Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram  
20 C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion  
21 of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of  
22 Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and  
23 T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any  
24 portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion  
25 of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International  
26 Corporation, International Paper Company and Lincoln Pulp and Paper Company  
27 located in Argyle; and the lands of the Dyer Interests in T.A.R.7 W.E.L.S., T.3 R.9  
28 N.W.P., T.3 R.3. N.B.K.P. (Alder Brook Township), T.3 R.4 N.B.K.P. (Hammond  
29 Township), T.2 R.4 N.B.K.P. (Pittston Academy Grant), T.2 R.3 N.B.K.P.  
30 (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss Township), and any lands in  
31 Albany Township acquired by the Passamaquoddy Tribe;

32 C. Any land not exceeding 100 acres in the City of Calais acquired by the secretary  
33 for the benefit of the Passamaquoddy Tribe as long as the land is not held in common  
34 with any other person or entity and is certified by the secretary as held for the benefit  
35 of the Passamaquoddy Tribe, if:

36 (1) The acquisition of the land by the tribe is approved by the legislative body of  
37 that city; and

38 (2) A tribal-state compact under the federal Indian Gaming Regulatory Act is  
39 agreed to by the State and the Passamaquoddy Tribe or the State is ordered by a  
40 court to negotiate such a compact;

41 D. All land acquired by the secretary for the benefit of the Passamaquoddy Tribe in T.  
42 19, M.D. to the extent that the land is not held in common with any other person or

1 entity and is certified by the secretary as held for the benefit of the Passamaquoddy  
2 Tribe;

3 D-1. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in  
4 Centerville consisting of Parcels A, B and C conveyed by Bertram C. Tackeff to the  
5 Passamaquoddy Tribe by quitclaim deed dated July 27, 1981, recorded in the  
6 Washington County Registry of Deeds in Book 1147, Page 251, to the extent that the  
7 land is not held in common with any other person or entity and is certified by the  
8 secretary as held for the benefit of the Passamaquoddy Tribe;

9 D-2. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in  
10 Centerville conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim  
11 deed dated May 4, 1982, recorded in the Washington County Registry of Deeds in  
12 Book 1178, Page 35, to the extent that the land is not held in common with any other  
13 person or entity and is certified by the secretary as held for the benefit of the  
14 Passamaquoddy Tribe;

15 E. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in  
16 Township 21 consisting of Gordon Island in Big Lake, conveyed by Domtar Maine  
17 Corporation to the Passamaquoddy Tribe by corporate quitclaim deed dated April 30,  
18 2002, recorded in the Washington County Registry of Deeds in Book 2624, Page 301,  
19 to the extent that the land is not held in common with any other person or entity and is  
20 certified by the secretary as held for the benefit of the Passamaquoddy Tribe; and

21 F. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Perry  
22 consisting of:

23 (1) Land conveyed by Denise E. Plouffe to the Passamaquoddy Tribe by quitclaim  
24 deed dated October 5, 2017, recorded in the Washington County Registry of Deeds  
25 in Book 4403, Pages 18 and 19; and

26 (2) Land conveyed by Austin Humphries to the Passamaquoddy Tribe by deed  
27 dated November 18, 1983, recorded in the Washington County Registry of Deeds  
28 in Book 1252, Pages 93 to 95.

29 Notwithstanding subsection 5 and any other provision of this Act to the contrary, the  
30 addition of land to the Passamaquoddy Indian territory pursuant to this paragraph is not  
31 subject to approval by any city, town, village or plantation within the State.

32 **2. Penobscot Indian territory.** Subject to subsections 3, 4 and 5, the following lands  
33 within the State ~~shall be~~ are known as "the "Penobscot Indian territory:"

34 A. The Penobscot Indian Reservation; and

35 B. The first 150,000 acres of land acquired by the secretary for the benefit of the  
36 Penobscot Nation from the following areas or lands to the extent that those lands are  
37 not held in common with any other person or entity and are certified by the secretary  
38 as held for the Penobscot Nation:

39 The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.  
40 (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.;  
41 the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,  
42 B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,  
43 B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;

1 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle  
2 Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram  
3 C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion  
4 of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of  
5 Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and  
6 T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any  
7 portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion  
8 of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International  
9 Corporation, International Paper Company and Lincoln Pulp and Paper Company  
10 located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres  
11 in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation  
12 Tribal Government; any lands in Lakeville acquired by the Penobscot Nation; and all  
13 the property acquired by the Penobscot Indian Nation from Herbert C. Haynes, Jr.,  
14 Herbert C. Haynes, Inc. and Five Islands Land Corporation located in Township 1,  
15 Range 6 W.E.L.S.

16 **3. Takings under the laws of the State.**

17 ~~A. Prior to any taking of land for public uses within either the Passamaquoddy Indian~~  
18 ~~Reservation or the Penobscot Indian Reservation, the public entity proposing the~~  
19 ~~taking, or, in the event of a taking proposed by a public utility, the Public Utilities~~  
20 ~~Commission, shall be required to find that there is no reasonably feasible alternative to~~  
21 ~~the proposed taking. In making this finding, the public entity or the Public Utilities~~  
22 ~~Commission shall compare the cost, technical feasibility, and environmental and social~~  
23 ~~impact of the available alternatives, if any, with the cost, technical feasibility and~~  
24 ~~environmental and social impact of the proposed taking. Prior to making this finding,~~  
25 ~~the public entity or Public Utilities Commission, after notice to the affected tribe or~~  
26 ~~nation, shall conduct a public hearing in the manner provided by the Maine~~  
27 ~~Administrative Procedure Act, on the affected Indian reservation. The finding of the~~  
28 ~~public entity or Public Utilities Commission may be appealed to the Maine Superior~~  
29 ~~Court.~~

30 ~~In the event of a taking of land for public uses within the Passamaquoddy Indian~~  
31 ~~Reservation or the Penobscot Indian Reservation, the public entity or public utility~~  
32 ~~making the taking shall, at the election of the affected tribe or nation, and with respect~~  
33 ~~to individually allotted lands, at the election of the affected allottee or allottees, acquire~~  
34 ~~by purchase or otherwise for the respective tribe, nation, allottee or allottees a parcel~~  
35 ~~or parcels of land equal in value to that taken; contiguous to the affected Indian~~  
36 ~~reservation; and as nearly adjacent to the parcel taken as practicable. The land so~~  
37 ~~acquired shall, upon written certification to the Secretary of State by the public entity~~  
38 ~~or public utility acquiring such land describing the location and boundaries thereof, be~~  
39 ~~included within the Indian Reservation of the affected tribe or nation without further~~  
40 ~~approval of the State. For purposes of this section, land along and adjacent to the~~  
41 ~~Penobscot River shall be deemed to be contiguous to the Penobscot Indian Reservation.~~  
42 ~~The acquisition of land for the Passamaquoddy Tribe or the Penobscot Nation or any~~  
43 ~~allottee under this subsection shall be full compensation for any such taking. If the~~  
44 ~~affected tribe, nation, allottee or allottees elect not to have a substitute parcel acquired~~  
45 ~~in accordance with this subsection, the moneys received for such taking shall be~~  
46 ~~reinvested in accordance with the provisions of paragraph B.~~

1 B. If land within either the Passamaquoddy Indian Territory or the Penobscot Indian  
2 Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot  
3 Indian Reservation is taken for public uses in accordance with the laws of the State the  
4 money received for said land shall be reinvested in other lands within 2 years of the  
5 date on which the money is received. To the extent that any moneys received are so  
6 reinvested in land with an area not greater than the area of the land taken and located  
7 within an unorganized or unincorporated area of the State, the lands so acquired by  
8 such reinvestment shall be included within the respective Indian territory without  
9 further approval of the State. To the extent that any moneys received are so reinvested  
10 in land with an area greater than the area of the land taken and located within an  
11 unorganized or unincorporated area of the State, the respective tribe or nation shall  
12 designate, within 30 days of such reinvestment, that portion of the land acquired by  
13 such reinvestment, not to exceed the area taken, which shall be included within the  
14 respective Indian territory. No land acquired pursuant to this paragraph shall be  
15 included within either Indian Territory until the Secretary of Interior has certified, in  
16 writing, to the Secretary of State the location and boundaries of the land acquired.

17 **3-A. Taking under the laws of the State prohibited.** Land within the  
18 Passamaquoddy Indian territory and land within the Penobscot Indian territory may not be  
19 taken for public uses under the laws of the State.

20 **4. Taking under the laws of the United States.** In the event of a taking of land within  
21 the Passamaquoddy Indian territory or the Penobscot Indian territory for public uses in  
22 accordance with the laws of the United States and the reinvestment of the moneys received  
23 from such taking within 2 years of the date on which the moneys are received, the status of  
24 the lands acquired by such reinvestment shall be determined in accordance with subsection  
25 3, paragraph B, the money received for the land must be reinvested in other lands within 2  
26 years of the date on which the money is received. To the extent that any money received is  
27 reinvested in land with an area not greater than the area of the land taken and located within  
28 an unorganized or unincorporated area of the State, the lands acquired by the reinvestment  
29 must be included within the respective Indian territory without further approval of the State.  
30 To the extent that any money received is reinvested in land with an area greater than the  
31 area of the land taken and located within an unorganized or unincorporated area of the  
32 State, the respective tribe or nation shall designate, within 30 days of the reinvestment, that  
33 portion of the land acquired by the reinvestment, not to exceed the area taken, that must be  
34 included within the respective Indian territory. Land acquired pursuant to this subsection  
35 may not be included within either Indian territory until the United States Secretary of the  
36 Interior has certified, in writing, to the Secretary of State the location and boundaries of the  
37 land acquired.

38 **5. Limitations.** ~~No lands~~ Lands held or acquired by or in trust for the Passamaquoddy  
39 Tribe or the Penobscot Nation, other than those described in subsections 1, 2, 3 and 4, shall  
40 may not be included within or added to the Passamaquoddy Indian territory or the  
41 Penobscot Indian territory except upon recommendation of the commission and approval  
42 of the State to be given in the manner required for the enactment of laws by the Legislature  
43 and Governor of Maine, provided, however, except that ~~no~~ lands within any city, town,  
44 village or plantation shall may not be added to either the Passamaquoddy Indian territory  
45 or the Penobscot Indian territory without approval of the legislative body of said the city,  
46 town, village or plantation in addition to the approval of the State.

1 Any lands within the Passamaquoddy Indian territory or the Penobscot Indian territory, the  
2 fee to which is transferred to any person who is not a member of the respective tribe or  
3 nation, shall cease to constitute a portion of Indian territory and shall revert to its status  
4 prior to the inclusion thereof within Indian territory.

5 **Sec. A-2. Contingent effective date.** This Part takes effect 150 days after  
6 adjournment of the First Regular Session of the 132nd Legislature only if, within 120 days  
7 after adjournment of the First Regular Session of the 132nd Legislature, the Secretary of  
8 State receives written certification from the Chief of the Passamaquoddy Tribe at Sipayik  
9 and the Chief of the Passamaquoddy Tribe at Motahkomikuk, or the designee under the  
10 Maine Revised Statutes, Title 3, section 602, that the Passamaquoddy Tribe has agreed to  
11 the provisions of this Part, copies of which must be submitted by the Secretary of State to  
12 the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of  
13 Statutes.

## 14 PART B

15 **Sec. B-1. 30 MRSA §6205-A**, as enacted by PL 1981, c. 675, §§2 and 8, is repealed.

16 **Sec. B-2. 30 MRSA §6205-B** is enacted to read:

### 17 **§6205-B. Taking under laws of the State prohibited on Houlton Band Trust Land**

18 Land within the Houlton Band Trust Land may not be taken for public uses under the  
19 laws of this State.

20 **Sec. B-3. Contingent effective date.** This Part takes effect 150 days after  
21 adjournment of the First Regular Session of the 132nd Legislature only if, within 120 days  
22 after adjournment of the First Regular Session of the 132nd Legislature, the Secretary of  
23 State receives written certification from the Chief of the Houlton Band of Maliseet Indians,  
24 or the officer designated under the Maine Revised Statutes, Title 3, section 602, that the  
25 band has agreed to the provisions of this Part, copies of which must be submitted by the  
26 Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives  
27 and the Revisor of Statutes.

28 Upon such written certification by the Houlton Band of Maliseet Indians, each section  
29 of this Part regarding or affecting the Houlton Band of Maliseet Indians and its tribal  
30 members and lands constitutes a jurisdictional agreement for purposes of the federal Maine  
31 Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2). Such written  
32 certification by the Houlton Band of Maliseet Indians does not constitute an agreement that  
33 the contingencies in Public Law 1981, chapter 675 were met or that the provisions of Public  
34 Law 1981, chapter 675 ever took effect.

## 35 PART C

36 **Sec. C-1. 30 MRSA §7204**, as enacted by PL 1989, c. 148, §§3 and 4 and affected  
37 by PL 2023, c. 369, Pt. A, §§2 and 5, is amended to read:

### 38 **§7204. Laws of State to apply to Indian Lands; exceptions**

39 Except as otherwise provided in this Act, the Mi'kmaq Nation and all members of the  
40 Mi'kmaq Nation in the State and any lands or other natural resources owned by them or  
41 held in trust for them by the United States or by any other person or entity are subject to

1 the laws of the State and to the civil and criminal jurisdiction of the courts of the State to  
2 the same extent as any other person or lands or other natural resources in the State.

3 Land within the Mi'kmaq Nation Trust Land may not be taken for public uses under  
4 the laws of this State.

5 **Sec. C-2. Contingent effective date.** This Part takes effect 150 days after  
6 adjournment of the First Regular Session of the 132nd Legislature only if, within 120 days  
7 after adjournment of the First Regular Session of the 132nd Legislature, the Secretary of  
8 State receives written certification from the Chief of the Mi'kmaq Nation, or the designee  
9 under the Maine Revised Statutes, Title 3, section 603, that the Mi'kmaq Nation has agreed  
10 to the provisions of this Part, copies of which must be submitted by the Secretary of State  
11 to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor  
12 of Statutes.

### 13 SUMMARY

14 This bill amends the Act to Implement the Maine Indian Claims Settlement and the  
15 Mi'kmaq Nation Restoration Act to prevent the taking of land for public uses under the  
16 laws of this State if the land is located within Passamaquoddy Indian territory, Penobscot  
17 Indian territory, the Houlton Band Trust Land or the Mi'kmaq Nation Trust Land.