

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1864

S.P. 734

In Senate, May 5, 2025

An Act to Facilitate the Reconstruction of Storm-damaged Commercial Fisheries Facilities and Infrastructure

(EMERGENCY)

Received by the Secretary of the Senate on May 1, 2025. Referred to the Committee on Housing and Economic Development pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in dark ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by President DAUGHTRY of Cumberland.
Cosponsored by Representative GOLEK of Harpswell.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas**, on March 20, 2024, President Joseph R. Biden, Jr. declared that a major
4 disaster existed in the State of Maine and ordered federal assistance to supplement state,
5 tribal and local recovery efforts in the areas affected by the severe storms and flooding that
6 occurred from January 9, 2024 to January 13, 2024, including within the town of
7 Harpswell; and

8 **Whereas**, as a result of the severe storms and flooding, individuals and business
9 owners in Harpswell suffered substantial damage to facilities and infrastructure such as
10 docks, piers, wharves, fish houses and other structures traditionally used in support of
11 commercial fishery operations and other functionally water-dependent uses; and

12 **Whereas**, under state and local law, to lawfully reconstruct or replace such damaged
13 facilities and infrastructure, a municipal board of appeals must grant a variance from certain
14 local ordinance provisions by finding, among other things, that the land in question cannot
15 yield a reasonable return unless the variance is granted; and

16 **Whereas**, because Maine courts have repeatedly held that mere access to coastal
17 waters and the recreational benefits afforded by that access provide property owners with
18 a reasonable return on their land, individuals and business owners would be unlikely to
19 demonstrate a lack of a reasonable return on their land and would therefore be unable to
20 benefit from the federal assistance to reconstruct or replace damaged facilities and
21 infrastructure made available by the disaster declaration; and

22 **Whereas**, absent an extension, the deadline to complete permanent work under the
23 emergency declaration is approaching in September 2025; and

24 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
25 the meaning of the Constitution of Maine and require the following legislation as
26 immediately necessary for the preservation of the public peace, health and safety; now,
27 therefore,

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

29 **Sec. 1. Exemption from reasonable return variance standard.** The Maine
30 Revised Statutes, Title 30-A, section 4353, subsection 4, paragraph A does not apply to a
31 petition for a variance from one or more provisions of the shoreland zoning ordinance and
32 floodplain management ordinance of the town of Harpswell if:

33 A. A property that is the subject of a variance petition is located within the town of
34 Harpswell;

35 B. A petitioner demonstrates to the Harpswell Board of Appeals that the petitioner
36 suffered substantial damage to a dock, pier or wharf, or a structure placed thereon, as a
37 result of the severe storms and flooding that occurred from January 9, 2024 to January 13,
38 2024;

39 C. The damaged dock, pier or wharf, or structure placed thereon, under paragraph B is
40 proposed to be reconstructed or replaced in kind and is a functionally water-dependent
41 structure or has a functionally water-dependent use; and

1 D. The variance petition under paragraph A is considered complete for processing by
2 the Harpswell Board of Appeals no later than December 31, 2027.

3 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
4 takes effect when approved.

5 SUMMARY

6 This bill allows an exception to the Maine Revised Statutes, Title 30-A, section 4353,
7 subsection 4, paragraph A to allow an individual or business owner whose dock, pier or
8 wharf was damaged by the severe storms and flooding that occurred from January 9, 2024
9 to January 13, 2024 to be granted a variance from the shoreland zoning ordinance and
10 floodplain management ordinance of the town of Harpswell, even if the land was not
11 damaged to such an extent that it yields no reasonable return, so that the individual or
12 business owner may conduct repairs on those structures and to do so in time to take
13 advantage of federal funds available pursuant to an emergency declaration.