

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 1665**

H. P. 1336

House of Representatives, January 6, 1970

Committee on Judiciary suggested.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Lund of Augusta.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
AND SEVENTY

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**AN ACT Relating to Easements in Lands.**

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

**Sec. 1. R. S., T. 33, § 667, additional.** Title 33 of the Revised Statutes is amended by adding a new section 667, as follows:

**§ 667. Conservation restrictions; defined**

A conservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic, open or wooded condition, or as suitable habitat for fish and wild life, to forbid or limit any or all:

1. Structures. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.

2. Landfill. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials.

3. Vegetation. Removal or destruction of trees, shrubs or other vegetation.

4. Loam, gravel, etc. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface.

5. Surface use. Surface use except for purposes permitting the land or water area to remain predominantly in its natural condition.

6. Acts detrimental to conservation. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or fish and wild life habitat preservation, or

7. Other acts. Other acts or uses detrimental to such retention of land or water areas.

Sec. 2. R. S., T. 33, § 668, additional. Title 33 of the Revised Statutes is amended by adding a new section 668, as follows:

§ 668. — —: acquisition, effect, recording and release of restrictions

No conservation restriction as defined in section 667 held by any governmental body, nonstock or charitable corporation or trust whose purposes include conservation of land or water areas or of a particular such area, shall be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of the benefit being assignable or being assigned to any other governmental body or to any nonstock or charitable corporation or trust with like purposes. All such restrictions shall be duly recorded and indexed in the registry of deeds for the county where the land lies so as to affect its title, in the manner of other conveyances of interests in land, and shall describe the land subject to said restrictions by adequate legal description or by reference to a recorded plan showing its boundaries.

Such conservation restrictions are interests in land and may be acquired by any governmental body or such nonstock or charitable corporation or trust which has power to acquire interests in land, in the same manner as it may acquire other interests in land. Such a restriction may be enforced by injunction or proceeding in equity, and shall entitle representatives of the holder of it to enter the land in a reasonable manner and at reasonable times to assure compliance. Such a restriction may be released, in whole or in part, by the holder for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of land or other interests in land, subject, to such conditions as may have been imposed at the time of creation of the restriction.

This section shall not be construed to imply that any restriction, easement, covenant or condition which does not have the benefit of this section shall, on account of any provision hereof, be unenforceable. Nothing in this section or section 667 shall diminish the powers granted by any general or special law to acquire by purchase, gift, eminent domain or otherwise and to use land for public purposes.