

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1608

S. P. 500

In Senate, March 26, 1973

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Brennan of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT to Establish Title to Islands in Maine's Coastal Waters and to
Create the Maine Coastal Island Registry.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the said 90-day period will not terminate until after the beginning of the next fiscal year; and

Whereas, the title to many islands and ledges located in the sea within the jurisdiction of the State of Maine are missing or incomplete and resolution of this legal uncertainty is essential; and

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

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

Sec. 1. R. S., T. 33, c. 25, additional. Title 33 of the Revised Statutes is amended by adding a new chapter 25 to read as follows:

CHAPTER 25

MAINE COASTAL ISLAND REGISTRY

§ 1201. Legislative intent, purpose

The Legislature finds that the ownership of many of Maine's coastal islands is uncertain. The Legislature prohibited the further sale of state-

owned islands in 1913 but some of the land agent's records of prior conveyances are missing or incomplete. In addition, title to many privately-owned islands was derived from ancient charters and grants. Subsequent grantees many times did not include such islands in grants or bequests or died intestate with no record of island holdings in their estates. Because of the large number of islands and ledges in Maine's coastal waters and the legal uncertainty with respect to the ownership of many such islands, unrealistic and perhaps fruitless expenditures of time and money, far exceeding all legal requirements of due diligence, would be necessary to search all subsequent conveyances from ancient charters and grants to establish State title to these islands. Therefore, in order to clarify and establish title to islands in Maine's coastal waters, to protect the State's ownership of its island resources for public use, to establish title to land that was once granted by the State of Maine, or by grant or charter before Maine became a State and subsequently owned by a person or persons who either died intestate without heirs or with heirs who abandoned the property, the Legislature directs the creation of a Coastal Island Registry and the following procedure to establish title to island property in Maine's coastal waters.

§ 1202. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Coastal waters. "Coastal waters" means all waters of the State within the rise and fall of the tide and to the marine limits of the jurisdiction of the State.
2. Incidence of ownership. "Incidence of ownership" means and shall be limited to:
 - A. A conveyance;
 - B. Probate proceeding;
 - C. Payment of taxes on an island to the State or a municipality; or
 - D. Occupation or cultivation of the land.
3. Island. "Island" means an island or any portion of an island, ledge or natural protrudence, found in Maine's coastal waters.
4. Residential structure. "Residential structure" means a building used as a seasonal or year-round dwelling.

§ 1203. Registry

There is herewith established and created a Coastal Island Registry which shall be an office within the Forestry Department which shall be organized in the manner the Forest Commissioner, in consultation with the State Planning Office, shall deem best suited to the accomplishment of the functions and purposes of this chapter. The Coastal Island Registry shall establish and maintain a listing and description of all islands and ledges in Maine's

coastal waters. Such description shall include location and owner or owners of title to each island.

§ 1204. —duties

The Coastal Island Registry shall, in cooperation with the State Planning Office, devise a system to number these islands and assign such numbers to all islands and ledges that appear on the maps of the United States Coast and Geodetic Survey for Maine's coastal waters for use in 1972.

§ 1205. Registration

Any holder of title, including those who hold beneficial ownership or claim title by adverse possession, to any island in Maine's coastal waters, must register this ownership with the Coastal Island Registry in duplicate on forms prescribed by the Coastal Island Registry which shall contain the following information:

1. The name and address of the present owner;
2. An accurate legal description of the island property, including the source of title;
3. The island's area or acreage;
4. The date acquired;
5. Other information necessary for the purposes of this chapter.

A registration fee of \$10 shall accompany each registration.

§ 1206. Filing

The registration must be filed with the Coastal Island Registry on or before December 31, 1974.

§ 1207. Title in State

After publication of notice in accordance with section 1211, title to any island property that is not registered with the Coastal Island Registry on or before December 31, 1974 shall be vested in the State of Maine, subject to conditions set forth in sections 1208 and 1209.

§ 1208. —other property

Any island that has been conveyed or granted by the State of Maine or by ancient grants or charters before Maine became a state but for which no incidence of ownership has been exercised for 40 years shall be deemed to have belonged to a person who died intestate without heirs or to a person or persons who abandoned the property. Title to such property shall vest in the State on January 1, 1975.

§ 1209. —adverse possession

Title to any island that has been previously conveyed or granted by the State of Maine or by ancient grants or charters before Maine became a State

but for which some incidence of ownership has been exercised within the last 40 years shall be deemed the property of the State in trust for the holder of legal title. Any right of title to such land by adverse possession that has not been in existence for 40 years on December 31, 1973, shall be terminated by virtue of this section on January 1, 1974.

1. Title. Title shall vest in the State without further notice, if the owner of legal title has not registered his title prior to December 31, 1983.

2. Income. All income, rents or profits derived from such island property during the period it is held in trust by the State shall accrue to the benefit of the Coastal Island Registry and shall not be redeemable by the holder of legal title.

3. Additional fee. A holder of legal title who registers his title after January 1, 1975 but prior to December 31, 1983 shall in addition to the \$10 registration fee pay the sum of \$200 with each registration.

§ 1210. Exemptions

Any person who owns title to an island or part of an island in Maine coastal waters that has 3 or more residential structures thereon is exempted from this chapter, provided that such property is on the tax rolls of a municipality or of the State. Any island owned by the Federal Government is exempted from this chapter.

§ 1211. Requirement for notice

1. Publication. The Secretary of State shall publish a notice setting forth the requirements of this chapter in a newspaper of general circulation in the State once a week for 3 consecutive weeks in December, 1973 and once a week for 3 consecutive weeks in July, 1974.

2. Posting. A copy of this notice shall be posted in the Registry of Deeds of each coastal county in which islands are located. A list of all islands subject to this chapter shall be recorded in the registry of deeds for the county in which the islands are located.

3. Other publication. A copy of this notice and a list of all islands within each coastal county in which the islands are located shall be published in a newspaper whose principal office is located in the county in which the islands are located once a week for 3 consecutive weeks in December, 1973 and once a week for 3 consecutive weeks in July, 1974. If there is no newspaper whose principal office is located in the county, the list shall be published in a newspaper of state-wide circulation.

4. Notice in tax bills. Municipal officers in municipalities with islands on their tax rolls shall insert a copy of this notice in tax bills for the calendar year 1974.

§ 1212. List

Municipal officers shall submit a list of islands within their jurisdiction that are being taxed by the municipality to the Coastal Island Registry on or before December 31, 1973, together with the names and addresses of all record owners of islands with 3 or less residential structures thereon.

§ 1213. Water boundaries

For the purposes of this chapter, the State Planning Office is directed to draw the water boundaries of the 8 coastal counties in order to determine in which registry of deeds the island shall be registered. These lines shall be drawn in accordance with the corporate charters of the counties as amended. In instances in which the charter does not clearly specify the seaward boundaries of the counties, the boundaries shall be drawn in accordance with state law and the principles contained in the International Convention for the Contiguous and Territorial Sea in determining seaward boundaries between adjacent nation states.

§ 1214. Recordation

Any conveyance, devise or transfer of island property by operation of law after January 1, 1974 shall be recorded in the registry of deeds in the county in which the island is located and notice of the name and the address of the new owner forwarded to the Coastal Island Registry by the register of deeds on a form prescribed by the Coastal Island Registry for which notice the register of deeds shall charge a fee of \$3.

§ 1215. Rules and regulations

The Forest Commissioner is authorized to promulgate any rules and regulations necessary to carry out the purposes of this chapter.

§ 1216. Limitation

Nothing in this chapter shall preclude the rights of the State to title to property under Title 18, section 1001, subsection 8 or in any action brought to quiet title with respect to island property.

§ 1217. Fees

All registraton fees except those designated for registers of deeds shall be used to carry out the purposes of this chapter. The Forest Commissioner is authorized to accept funding from federal or other public or private sources to carry out the purposes of this chapter.

Sec. 2. Appropriation. There is appropriated from the Unappropriated Surplus of the General Fund the sum of \$30,000 to establish the Coastal Island Registry and to carry out the purposes of this Act. Any unexpended balance shall not lapse but shall remain a continuing carrying account until the purposes of this Act have been accomplished.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the title.