

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

COMMITTEE AMENDMENT " A " to H.P. 567, L.D. 703,
Bill, "AN ACT to Include the Right to Use Submerged
Lands as Part of Environmental Licensing."

Amend said Bill in the Emergency preamble
by striking out all of the 3rd paragraph.

Further amend said Bill by striking out
everything after the enacting clause and before
the Emergency clause and inserting in place thereof
the following:

Sec. 1.

1/12 MRSA §514-A is enacted to read:

§514-A. Submerged and intertidal lands owned by
the State

1. Definitions. As used in this section,
unless the context otherwise indicates, the following
words shall have the following meanings:

A. Permanent. "Permanent" means occupying
submerged and intertidal lands owned by the
State during 7 or more months during any one
calendar year.

B. Occupying. "Occupying" refers to the total
area of the structure or alteration itself to
the extent that the area within its boundaries
are directly upon or over such state-owned
lands.

2. Actions. The Director of the Bureau of
Public Lands may take the following actions with
respect to submerged and intertidal lands under his
jurisdiction.

A. Lease, upon such terms and conditions and
for such consideration as he deems reasonable,
for a term of years not exceeding 30, the right
to dredge, fill or erect permanent causeways,
bridges, marinas, wharves, docks or other
permanent structures on lands, including
submerged and intertidal lands owned by the
State.

B. Grant, upon such terms and conditions, but without valuable consideration, assignable easements for a term of years not exceeding 30 for the use of submerged and intertidal lands for the purposes permitted in paragraph A, provided that such use:

(1) Is for the exclusive benefit of the abutting upland owner for noncommercial recreational or improvement purposes only and is not intended as an amenity in furtherance of a commercial purpose;

(2) Occupies a total of not more than 100 square feet of state-owned land for any lawful purpose;

(3) Occupies a total of not more than 500 square feet of state-owned land for the exclusive purpose of landing or processing shellfish, finfish or other natural products of the sea; or

(4) Is for harbor improvement by the Federal Government.

C. Adjust from time to time the terms, conditions and consideration applicable to any leasehold or easement entered into under this section in any parcel of state-owned land, including submerged or intertidal land.

D. Review from time to time, in the case of easements, the purposes for which the land conveyed has actually been used, and in the event any such purpose is found to be inconsistent with the criteria set forth in paragraph B for eligibility for an easement, such easement shall terminate and the director may enter into a leasehold agreement with the holder of the easement in accordance with the provisions of paragraph A.

3. Constructive easements. In the event the director fails to take final action on an application for an easement for a project eligible for such easement under subsection 2, paragraph B, within 30 days after receipt of such application, then an easement for a term of 30 years on the state-owned land directly underlying the project shall be deemed to have been granted. The owners of all structures actually upon submerged and intertidal lands on the effective date of this Act shall be deemed to have been granted such an easement.

4. Consultation. The director shall consult with the Commissioners of Conservation, Marine Resources and Inland Fisheries and Game and such other agencies or organizations as he may deem appropriate in developing and implementing terms, conditions and consideration for conveyances under this section.

Sec. 2. 38 MRSA §1022, as last amended by PL 1973, c. 513, §22, is further amended by adding at the end a new paragraph to read:

Any licenses issued under this chapter shall constitute an approval and determination by the issuer thereof that the licensed wharf or weir constructed and operated within the limits imposed by such license does not adversely affect nor impair the interests of the issuer in such area, including navigation and the rights of private citizens in the area. Such license does not confer any right, title or interest in submerged or intertidal lands owned by the State.'

Statement of Fact

The State of Maine owns most of the submerged land under tidewaters and great ponds. Presently, there is no way for persons wishing to locate structures on these lands to get title to them other than through a direct grant from the Legislature. This Act remedies the situation by authorizing the

Bureau of Public Lands, which has jurisdiction, to grant leases or easements for such structures. This approach has the advantages of securing long-term property rights for people using submerged lands; returning income to the public from the commercial use of public lands; ensuring that small and noncommercial users will not have to pay for the use of the land; and ensuring that applicants have sufficient right, title or interest to apply for environmental permits.

This Act also requires prompt action by the Director, for easements will be granted automatically after 30 days. Finally, this Act clarifies the regulatory nature of the Wharves and Weirs Act which protects municipal interests in coastal waters. This Act is presented as an emergency so that the many applications for the use of submerged lands now pending before environmental agencies can be acted upon.

Reported by the Committee on Public Lands.

Reproduced and distributed under the direction of the Clerk of the House.

5/5/75

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