

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 703

H. P. 567

House of Representatives, February 19, 1975

Referred to the Committee on Public Lands. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Peterson of Windham.

STATE OF MAINE

**IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE**

**AN ACT to Include the Right to Use Submerged Lands as Part of
Environmental Licensing.**

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

Whereas, the Department of Environmental Protection, the Department of Inland Fisheries and Game and the Land Use Regulation Commission issue licenses, permits and approvals under the Protection and Improvement of Waters statutes, the Great Ponds statute, the Wetlands statute, the Alteration of Rivers, Streams and Brooks statute and the Land Use Regulation statutes; and

Whereas, activities undertaken under these licenses, permits and approvals frequently involve submerged lands; and

Whereas, submerged lands are largely in the public domain, held in trust by the sovereign State of Maine for the public; and

Whereas, it is in the public interest to secure an economic return for the public on large scale commercial uses of this public land; and

Whereas, it is also in the public interest to exempt small or noncommercial users from fees and also to guarantee for such users adequate real property rights in state-owned submerged land; and

Whereas, the Bureau of Public Lands within the Department of Conservation has jurisdiction but only limited authority to convey interests in such lands; and

Whereas, the inability to authorize projects on submerged lands causes inconveniences and hardships for the citizens of the State of Maine; 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:

30 MRSA § 4162, sub-§ 4, ¶ I is enacted to read:

I. Lease, for a term of years, not exceeding 30, on such terms and conditions and for such consideration as he deems reasonable the right to dredge, fill or erect causeways, bridges, marinas, wharves, docks or other permanent structures on submerged lands owned by the State, provided that the Commissioners of the Departments of Conservation, Inland Fisheries and Game and Marine Resources may from time to time jointly make rulings that a certain class or classes of activity upon the submerged lands is of an economic value insufficient to warrant payment of a leasehold rental fee. For such classes of activity, the commissioners shall authorize the Director of the Bureau of Public Lands to grant assignable easements to use state-owned submerged land for a term of years not exceeding 30. All structures actually upon the submerged lands on the effective date of this Act shall be deemed to have been granted such easement. The granting of any such leases shall in no way limit the jurisdiction of any regulatory agency.

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

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 income from the commercial use of public lands; ensuring that small and non-commercial 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 is presented as an emergency so that the many applications for use of submerged lands now pending before environmental agencies can be acted upon.