

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 1209

H. P. 965

House of Representatives, March 20, 1975

On Motion of Mr. Cooney of Sabattus, referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Najarian of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT to Facilitate Operation of the Coastal Island Registry and to  
Establish Criteria for State Title in Coastal Islands.

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

Sec. 1. 33 MRSA § 1202, as last amended by PL 1973, c. 788, § 167-A, is repealed and the following enacted in place thereof:

§ 1202. Definitions

As used in this chapter the following words shall have the following meanings.

1. Coastal island. "Coastal island" means a natural land formation protruding above the surface of and surrounded by Maine's coastal waters at mean high tide or any portion of such land formation.
2. 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.
3. Person. "Person" shall include individuals, partnerships, corporations, municipalities and other legal entities but shall not include the State and its agencies or the Federal Government.
4. Residential structure. "Residential structure" means a building used as a seasonal or year-round dwelling which was in existence on July 5, 1973.
5. Traceable. "Traceable" means derived through successive transfers which were accomplished by written evidence of title or by intestate succession. No intestate succession shall be included without clear and convincing

evidence supplied by the registrant showing the interest which passed into the registrant's chain of title by the succession.

6. True owner. "True owner" means a person who holds title to a coastal island which is:

A. Traceable to that person from a written evidence of title which describes such island in sufficient detail to locate such coastal island on a map of the United States Coast and Geodetic Survey for Maine's coastal waters for use in 1972 and is dated prior to July 13, 1913; or

B. By adverse possession.

7. Written evidence of title. "Written evidence of title" means:

A. A deed, including tax and mortgage foreclosures, filed in the appropriate county registry of deeds;

B. A record of a Maine probate proceeding;

C. An order of a court of competent jurisdiction; or

D. Other authenticated writing which creates, confirms or evidences ownership of the coastal island as determined by the Director of the Bureau of Public Lands or the director's designate, after consultation with the Attorney General.

Sec. 2. 33 MRSA § 1203, as last amended by PL 1973, c. 460, § 18, is repealed and the following enacted in place thereof:

#### § 1203. Registry

There is herewith established and created a Coastal Island Registry which shall be an office within the Bureau of Public Lands which shall be organized in the manner the Director of the Bureau of Public Lands 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 coastal islands. Such description shall include the location and true owner or true owners of each coastal island.

Sec. 3. 33 MRSA § 1204, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

#### § 1204. —duties

The Coastal Island Registry shall devise a system to number coastal islands and assign such numbers to all coastal islands.

Sec. 4. 33 MRSA § 1205, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

#### § 1205. Registration

Each true owner, or authorized representative of such true owner, shall register the true owner's coastal island with the Coastal Island Registry whether or not such coastal island has been assigned a number under section

1204. Any group of islands assigned a single number under section 1204 as of February 28, 1974, and any group of islands unnumbered as of February 28, 1974 and subsequently assigned a single number under section 1204 shall be considered a single island for the purpose of this section. Each registration shall be filed on forms prescribed by the Coastal Island Registry which shall contain the following information:

1. Name and address of owner. The name and address of the present true owner;
2. Legal description. An accurate legal description of the island property, including the source of title in sufficient detail to locate such coastal island on a map of the United States Coast and Geodetic Survey for Maine's coastal waters for use in 1972.
3. Area. The island's area or acreage;
4. Date of acquisition. The date acquired;
5. Other information. Other information necessary for the purposes of this chapter.

A registration fee of \$10 shall accompany each registration. After a true owner has registered a coastal island in accordance with this chapter, no heir, successor or assign of such owner need register such coastal island with the Coastal Island Registry.

Sec. 5. 33 MRSA § 1206, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

§ 1206. Filing and notice of failure to file

1. Filing of registration. The registration must be filed with the Coastal Island Registry on or before December 31, 1975. Any filing of a registration before January 1, 1974 with the Coastal Island Registry in accordance with the law in effect at the date of such filing shall be considered a valid filing for the purposes of section 1205 and this section.

2. Notice of failure to file. Notice of failure to file registration shall be mailed to every true owner, whose identity may reasonably be ascertained, at his last known address, after December 31, 1975.

3. Publication of notice. Notice shall be published setting forth all those coastal islands which remain unregistered, in the state paper and in 2 newspapers of general circulation within the State, once a week for 3 consecutive weeks in February, 1976.

4. Notice posted in registry of deeds. A copy of this notice shall be posted in each registry of deeds of each county and shall be published in each coastal county in a newspaper whose principal office is located in that county once a week for 3 consecutive weeks in February, 1976.

Sec. 6. 33 MRSA § 1207, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

**§ 1207. Title in State**

Title to each and every coastal island that is not registered by the true owner or authorized representative of such true owner with the Coastal Island Registry on or before December 31, 1975, shall vest in the State of Maine on January 1, 1976, subject to the exceptions and conditions set forth in sections 1208 and 1210.

**Sec. 7.** 33 MRSA § 1208, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

**§ 1208. Late registrations**

Each and every coastal island which the true owner has failed to register shall be held in the possession, custody and control of the Bureau of Public Lands until such time as the true owner files a registration, in the same manner as required under section 1205, with the Coastal Island Registry.

1. **Penalty fee.** A true owner who has not registered his coastal island on or before December 31, 1975, shall pay the sum of \$50 in addition to the \$10 registration fee.

2. **Income.** All income derived from coastal islands which are under the possession, custody and control of the Bureau of Public Lands shall not be redeemable by the true owner, but shall accrue to the Bureau of Public Lands to be used for the management of the public lands. Notwithstanding the foregoing, in the event a Public Lands Management Fund is established, such income shall be deposited in said fund.

**Sec. 8.** 33 MRSA § 1209, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

**§ 1209. Review of claims to coastal islands**

The Director of the Bureau of Public Lands shall review each and every claim of true ownership made to a coastal island or islands under section 1205 or section 1208. An initial determination shall be made by the director after consultation with the Attorney General as to the validity of all such claims. The director shall notify in writing any person whose claim is initially determined to be not valid.

Any person so notified shall have 30 days from the date of such notification to present evidence to substantiate his claim. The director shall make a final determination of the validity of such claim within 30 days of receipt of such evidence. If no evidence is forthcoming, the director's initial determination shall become final.

Appeals from the final determination of the director under this section shall be taken in accordance with Rule 80B of the Maine Rules of Civil Procedure.

**Sec. 9.** 33 MRSA § 1210, as enacted by PL 1973, c. 616, § 1, is repealed and the following enacted in place thereof:

**§ 1210. Exemption**

Any coastal island that has 4 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.

Sec. 10. 33 MRSA § 1214, as enacted by PL 1973, c. 616, § 1, is repealed.

Sec. 11. 33 MRSA § 1215, as last amended by PL 1973, c. 460, § 18, is repealed and the following enacted in place thereof:

**§ 1215. Rules and regulations**

The Director of the Bureau of Public Lands is authorized to promulgate any rules and regulations concerning the organization of the Coastal Island Registry, the procedure by which registrations are to be presented to and reviewed by the Bureau of Public Lands and in any other area necessary to carry out the purpose of this chapter.

Sec. 12. 33 MRSA § 1217, last sentence, as last amended by PL 1973, c. 460, § 18, is repealed and the following enacted in place thereof:

The Director of the Bureau of Public Lands is authorized to accept funding from federal or other public or private sources to carry out the purposes of this chapter.

Sec. 13. 33 MRSA § 1218 is enacted to read:

**§ 1218. Fraudulent registration**

Any person who knowingly registers a coastal island, not being the true owner of such island, with the intent of fraudulently obtaining an interest in such island, or with the purpose of deceiving the State as to ownership of such island or to otherwise deceive, deprive, obtain or misrepresent ownership of such island shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months.

**STATEMENT OF FACT**

This bill assures that no true owner of a coastal island will be divested of his or her title. This bill also corrects inconsistencies in the present law, establishes criteria and a procedure to determine the validity of island ownership claims, reduces the penalty for late registration from \$200 to \$50, extends the deadline for registration to December 31, 1975 and institutes a penalty for fraudulent registration.