

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1927

H. P. 1955 House of Representatives, February 9, 1982
Filed by the Joint Standing Committee on Marine Resources pursuant to Joint Rule 18. Approved by the Legislative Council June 4, 1981.

Reported by Representative Fowlie from the Committee on Marine Resources and ordered printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-TWO

AN ACT to Allow the Transfer of Aquaculture Leases.

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

19 Sec. 1. 12 MRSA §6072, sub-§2, ¶¶B and C, as enacted
20 by PL 1977, c. 661, §5, are amended to read:

21 B. A lease shall not exceed an area of 5 acres; and

22 C. No applicant shall be permitted to lease more than
23 200 acres; and .

24 Sec. 2. 12 MRSA §6072, sub-§2, ¶D, as enacted by PL
25 1977, c. 661, §5, is repealed.

26 Sec. 3. 12 MRSA §6072, sub-§12-A is enacted to read:

12-A. Transferability. A lease may be transferred to another person for the remaining portion of its term subject to the following conditions.

A. Lease transfers shall be subject to the same procedural requirements as initial applications, except that a public hearing is not mandatory unless requested by an interested person.

B. The commissioner may grant lease transfers, with the advice and consent of the advisory council, if he determines that:

(1) The change in lessee does not violate any of the standards in subsection 7;

(2) The transfer is not intended to circumvent the intent of subsection 8; and

(3) The transfer is not for speculative purposes.

Sec. 4. 12 MRSA §6072, sub-§13, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

13. Regulations. The commissioner may adopt or amend regulations:

A. Establishing minimum standards for maintaining leases;

B. For procedures to issue, transfer, review or revoke leases; and

C. For notices and hearings to the extent that those procedures are not established by this section or the Maine Administrative Procedure Act, Title 5, chapter 375.

STATEMENT OF FACT

A promising aquaculture industry is evolving along the coast of Maine. Maine's aquaculture lease law offers the opportunity for aquaculture operators to secure certain rights in marine waters. These rights enable aquaculturists to make long term capital investments and to secure financing. As currently written, Maine's lease law prohibits the transfer of leases when an aquaculture enterprise is sold.

1 This creates an obstacle to development of the industry,
2 because investors are reluctant to finance aquaculture oper-
3 ations if those operations cannot be sold to new operators
4 together with leased water area rights.

5 This bill eliminates the prohibition on transferring
6 aquaculture leases. The present law enables the State to
7 revoke a lease if the lessee violates conditions stipulated
8 in the lease or if the lessee's activities are deemed harm-
9 ful to marine organisms. This bill also provides that the
10 Commissioner of Marine Resources may only approve lease
11 transfers if he determines that the transfer:

- 12 1. Will not violate the standards of the original
13 lease;
- 14 2. Will not circumvent the preference the present law
15 provides for the Department of Marine Resources, ripar-
16 ian owners and fishermen who traditionally fish in or
17 near the lease area; and
- 18 3. Is not for speculative purposes.

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