

# MAINE STATE LEGISLATURE

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L.D. 2289

(Filing No. H-585 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
113TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1671, L.D. 2289,  
Bill, "AN ACT to Prohibit the Establishment of Docking  
Condominiums on Tidewaters, Lakes and Great Ponds."

Amend the bill by striking out everything after  
the enacting clause and inserting in its place the  
following:

'Sec. 1. 12 MRSA §558-A, sub-§2, ¶A, as enacted  
by PL 1983, c. 819, Pt. A, §10, is amended to read:

A. For fill, permanent causeways, bridges,  
marinas, wharves, docks, pilings, moorings or  
other permanent structures:

(1) The director shall charge the lessee a  
base rent that practically approximates the  
fair market rental value of the land;

(2) The director may adjust the base rent,  
decreasing it for desirable uses or  
increasing it for undesirable ones. In  
determining the desirability of uses, the  
director shall consider the extent to which  
the use does not impair the future use of the  
submerged or intertidal land for fishing,  
fowling or navigation, needs to be located on  
the submerged land, and exploits natural  
renewable resources of the water;

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1 (3) The director may revalue rents every 5  
2 years. For leases entered into before and  
3 after July 1, 1984, rents shall not exceed 4¢  
4 per square foot increased by 10% cumulatively  
5 for each year that has elapsed since July 1,  
6 1984, further adjusted by the cumulative  
7 increase in the United States Consumer Price  
8 Index. Notwithstanding this limit, if an  
9 appraisal of the value of the land under a  
10 new or existing lease is performed, the  
11 director may charge a rent based on  
12 subparagraphs (1) and (2); and

13 (4) The director may also lease, for a  
14 period of not more than 5 years, a buffer  
15 zone of not more than 30 feet in width around  
16 a permanent structure located on submerged or  
17 intertidal land, provided the lease is  
18 necessary to preserve the integrity and  
19 safety of the structure and the Commissioner  
20 of Marine Resources consents to that  
21 lease; ;

22 (5) No portion of any existing or proposed  
23 lease may be subleased after August 1, 1988,  
24 for a period of more than 5 years for the  
25 purpose of providing berthing space for any  
26 boat or vessel. This subparagraph is  
27 repealed 91 days after the adjournment of the  
28 First Regular Session of the 114th  
29 Legislature; and

30 (6) The director may grant the proposed  
31 lease if the director finds that, in addition  
32 to any other findings that the director may  
33 require, the proposed lease:

34 (a) Will not unreasonably interfere with  
35 navigation;

36 (b) Will not unreasonably interfere with  
37 fishing or other existing marine uses of  
38 the area; and

39 (c) Will not unreasonably diminish the  
40 availability of services and facilities.

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1                    necessary for commercial marine  
2                    activities.

3                    This subparagraph is repealed 91 days after  
4                    the adjournment of the First Regular Session  
5                    of the 114th Legislature.

6                    **Sec. 2. Study of submerged lands leasing**  
7                    **policy.** The Director of the Bureau of Public Lands,  
8                    in cooperation with the State Planning Office and the  
9                    Department of Marine Resources, shall conduct a  
10                    comprehensive study of its policies and procedures for  
11                    the leasing of submerged state lands.

12                    1. Study topics. In addition to any other topics  
13                    the director determines to be important, the study  
14                    shall include consideration of the following topics:

15                    A. The adequacy of current lease fee schedules to  
16                    yield a fair rate of return for the State for the  
17                    private use of submerged state lands;

18                    B. The impact of current leasing policies on  
19                    public access to the waters of the State,  
20                    including access by commercial and recreational  
21                    users;

22                    C. The impact of current leasing policies on the  
23                    commercial fishing industry, including the  
24                    shore-based services and facilities on which this  
25                    industry depends; and

26                    D. The desirability of the current trend towards  
27                    what is commonly known as a dockominium, which is  
28                    long-term subleasing of leases to multiple  
29                    leaseholders.

30                    2. Advisory committee. The director shall  
31                    convene and consult with an advisory panel of persons  
32                    with interests and expertise in the topics under  
33                    study. Membership shall include representatives of  
34                    the Legislature; the commercial fishing industry; the  
35                    marine trades industry; recreational boating  
36                    interests; municipal officials, including harbor  
37                    masters; leaseholders; and other groups as the  
38                    director finds useful.

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1 3. Report. The director shall report to the  
2 Joint Standing Committee on Energy and Natural  
3 Resources on the results of the study on or before  
4 January 1, 1989.

5 FISCAL NOTE

6 If enacted, this bill could potentially result in  
7 a decrease in dedicated revenue to the Department of  
8 Conservation, Public Lands Management Fund, Acct.  
9 #4512.3. The anticipated loss of revenue would result  
10 from a reduction in the number of new marina leases on  
11 submerged or intertidal lands. The Office of Fiscal  
12 and Program Review estimates that the loss of  
13 anticipated revenue could amount to \$5,000 in fiscal  
14 year 1989. The Bureau of Public Lands has indicated  
15 that it can absorb any additional costs associated with  
16 the study component of the bill.'

17 STATEMENT OF FACT

18 The purpose of this amendment is to enact 2  
19 safeguards against damaging impacts on the commercial  
20 fishing industry and other traditional marine uses as  
21 a result of the extensive subleasing of leases of  
22 submerged state lands. These actions will serve until  
23 the Bureau of Public Lands can conduct a thorough  
24 study of this and related issues over the next 2 years.

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