

# MAINE STATE LEGISLATURE

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L.D. 558

(Filing No. H- 331)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 415, L.D. 558, Bill, "An Act to Ensure Public Access to the Shoreland Zone"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Protect Public Access to Intertidal and Submerged Lands'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'12 MRSA §558-A, sub-§2, as amended by PL 1987, c. 765, §1, is further amended to read:

2. Leases. The director may lease, for a term of years not exceeding 30 and with conditions he ~~the director~~ deems reasonable, the right to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures on submerged and intertidal land owned by the State. The director may refuse to lease submerged lands if the director determines that the lease will unreasonably interfere with customary or traditional public access ways to, or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands.

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;

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

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

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(5) No portion of any existing or proposed lease may be subleased after August 1, 1988, for a period of time of more than 5 years for the purpose of providing berthing space for any boat or vessel. This subparagraph shall not apply to any existing sublease or assignments thereof or to any subleasing plan or arrangement approved by the director prior to April 15, 1988. This subparagraph is repealed 91 days after the adjournment of the First Regular Session of the 114th Legislature; and

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

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(a) Will not unreasonably interfere with navigation;

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

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1 (c) Will not unreasonably diminish the  
3 availability of services and facilities necessary  
for commercial marine activities.

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

9 B. For dredging, impounded areas and underwater cables and  
11 pipelines, the director shall develop such terms and  
conditions as he the director deems reasonable.

13 C. The director shall charge an administrative fee of \$25  
15 for each lease in addition to any rent.

17 D. The director may establish a reasonable minimum rent to  
19 which any lease is subject, but it shall not exceed \$75 per  
year.

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**FISCAL NOTE**

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25 It is anticipated that costs associated with this bill will  
be absorbed by the Department of Conservation, Bureau of Public  
Lands, utilizing existing resources.'

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**STATEMENT OF FACT**

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33 This amendment allows the Director of the Bureau of Public  
Lands to deny an application for a submerged lands lease if the  
35 director determines that the lease will interfere with public  
access to, or public trust rights in, on or over these  
state-owned lands. This amendment also adds a fiscal note.

Reported by the Committee on Energy and Natural Resources  
Reproduced and distributed under the direction of the Clerk of the  
House  
5/30/89

(Filing No. H-331)