

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 646, L.D. 920, Bill, "An Act to Amend the Laws Relating to Submerged Land"

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

'Sec. 1. 12 MRSA §558-A, sub-§1, ¶¶E, F, G and H are enacted to read:

E. "Dockominium" means slip space that is sold or leased by a lessee of submerged lands to a boat or vessel owner for more than one year.

F. "Fair market rental value" means, for all uses of submerged lands except slip space rented or otherwise made available for private use for a fee, the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor based on the use of the leased submerged land as specified in this section. For slip space rented or otherwise made available for private use for a fee, the fair market rental value is the gross income from that space multiplied by a reduction factor as specified in this section based on the use of the leased submerged land.

G. "Gross income" means the total annual income received by a lessee from seasonal or transient rental to the general public of slip space over submerged land. For dockominiums, slips that are part of a residential condominium, boat clubs and other facilities with slip space that is not rented or leased to the general public, the director shall determine gross income by calculating a regional average slip space rental fee and applying that to the portion of total linear length of slip space made available to private users for any portion of that year.

2 H. "Slip space" means the area adjacent to a pier or float  
3 that is used for berthing a boat.

4  
5 **Sec. 2. 12 MRSA §558-A, sub-§2, ¶A, as repealed and replaced**  
6 **by c. 878, Pt. A, §30, is amended to read:**

7  
8 A. For fill, permanent causeways, bridges, marinas,  
9 wharves, docks, pilings, moorings or other permanent  
10 structures and for nonpermanent structures that occupy a  
11 total of 500 square feet or more of submerged land or occupy  
12 a total of 2,000 square feet or more of submerged land if  
13 used exclusively for commercial fishing activities:

14  
15 (1) The director shall charge the lessee a base rent  
16 that practically approximates the fair market rental  
17 value of the submerged land. ~~Fair-market-rental-value~~  
18 ~~shall-be-the-municipally-assessed-value-per-square-foot~~  
19 ~~for--the--adjacent--upland--multiplied--by--a--reduction~~  
20 ~~factor-based-on-the-use-of-the-leased-submerged-land.~~  
21 The reduction factors for use categories shall be ~~are~~  
22 as follows:

23  
24 (a) A reduction factor of 0%, or no rental fee,  
25 for nonprofit organizations or publicly owned  
26 facilities that offer free public use or public  
27 use with nominal user fees. Public uses include,  
28 but are not limited to, municipal utilities and  
29 facilities that provide public access to the  
30 water, town wharves, walkways, fishing piers, boat  
31 launches, parks, nature reserves, swimming or  
32 skating areas and other projects designed to allow  
33 or enhance public recreation, fishing, fowling and  
34 navigation and for which user fees are used  
35 exclusively for the maintenance of the facility;

36  
37 (b) A reduction factor of 1% for commercial  
38 fishing uses of renewable aquatic resources.  
39 Commercial uses of renewable aquatic resources  
40 include, but are not limited to, facilities which  
41 are directly involved in commercial fishing  
42 activities. Such facilities shall include, but  
43 are not be limited to, fish piers, lobster  
44 impoundments, fish processing facilities, ~~berthing~~  
45 ~~for--fishing--boats~~ and floats or piers for the  
46 storage of gear, ~~To-qualify-as-a-commercial-use~~  
47 ~~of-renewable-aquatic-resources,-a-marina-must-have~~  
48 ~~at-least-50%-of-its-slips-in-use-by-commercial~~  
~~fishing-boats-year-round;~~

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(c) A reduction factor of 2% for any slip space rented or otherwise made available for private use by commercial fishing boats for a fee;

~~(d)~~ (d) A reduction factor of 2% for water dependent commerce, industry and private uses. Water dependent commerce, industry and private uses other than commercial uses of renewable aquatic resources include, but are not limited to, all facilities that are functionally dependent upon a waterfront location, ~~cannot~~ can not reasonably be located or operated on an upland site or are essential to the operation of the marine industry. Such facilities shall include, but are not be limited to, privately owned piers and docks, cargo ports, private boat ramps, shipping and ferry terminals, tug and barge facilities, businesses that are engaged in watercraft construction, maintenance or repair, aquariums and the area within marinas that have less than 50% of their slips in use by commercial fishing--boats--year--round occupied by service facilities, gas docks, breakwaters and other structures not used for slip space; and

(e) A reduction factor of 4% for any slip space rented or otherwise made available for private use for recreational boats for a fee. For facilities that include slip space under constructive easement, the rental fee may be reduced proportionally by the ratio of linear length of slip space within the area under constructive easement to the total linear length of all slip space within the facility; and

~~(d)~~ (f) A reduction factor of 10% for upland uses and fill. Upland uses include, but are not limited to, all uses that can operate in a location other than on the waterfront or which are not essential to the operation of the marine industry. Such facilities shall include, but are not be limited to, residences, offices, restaurants and parking lots. Fill shall must include the placement of solid material other than pilings or other open support structures upon submerged lands.

When the director determines that the municipally assessed value of the adjacent upland is not an accurate indicator of the value of submerged land, the

2 director may require the applicant to provide an  
appraisal of the submerged land. The appraisal must be  
3 approved by the director;

4  
5 (2) After October 1, 1990, the director may revalue  
6 all existing rents to full fair market rental value.  
7 Rents for all uses except slip space may be adjusted  
8 annually until the full fair market rental value is  
9 reached. Thereafter, the director may revalue rents  
10 for all uses except slip space every 5 years. Rents  
11 for slip space may fluctuate annually depending on the  
12 gross income of the facility;

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

20  
21 (4) Any existing or proposed lease may be subleased  
22 for the period of the original lease for the purpose of  
23 providing berthing space for any boat or vessel;

24  
25 (5) No portion of an existing or proposed lease may be  
26 transferred from a person subleasing that portion to  
27 provide berthing space for any boat or vessel except  
28 for a transfer to heirs upon death of the sublessee  
29 holder or a transfer to the original leaseholder  
30 subject to terms agreed to by the lessor and sublessee  
31 at the time of the sublease. This subparagraph shall  
32 does not apply to any subleasing arrangements entered  
33 into prior to June 15, 1989; and

34  
35 (6) The director may grant the proposed lease if the  
36 director finds that, in addition to any other findings  
37 that the director may require, the proposed lease:

38 (a) Will not unreasonably interfere with  
39 navigation;

40  
41 (b) Will not unreasonably interfere with fishing  
42 or other existing marine uses of the area;

43  
44 (c) Will not unreasonably diminish the  
45 availability of services and facilities necessary  
46 for commercial marine activities; and

47  
48 (d) Will not unreasonably interfere with ingress  
49 and egress of riparian owners.  
50

2                   The bureau shall promulgate rules pertaining to this  
subparagraph by March 15, 1990.

4                   **Sec. 3. Effective date.** This Act takes effect on October 1,  
6 1991.

8   **FISCAL NOTE**

10                   This bill establishes a new submerged lands rental system  
for marinas based on a percentage of their actual gross slip  
12 rental income. The dedicated revenue to be generated under the  
new fee system will be similar to the amount budgeted under the  
14 existing program and will be adequate to cover program expenses.'

16   **STATEMENT OF FACT**

18                   This amendment strikes the original bill. The amendment  
20 proposes a mechanism to charge those persons that lease submerged  
lands from the State for slip space in marinas an annual fee  
22 based on gross income from the rental of that space. The fee  
charged for dockominiums, slips that are part of a residential  
24 condominium and boat clubs will be determined by the Director of  
the Bureau of Public Lands based on an average of slip rentals  
26 for the area. Service facilities that are part of marinas will  
be charged a rate based on the municipally assessed value of the  
28 uplands. The amendment takes effect on October 1, 1991. The  
30 amendment also adds a fiscal note to the bill.

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

(5/23/91)

(Filing No. H-433)