

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1817

H.P. 1250

House of Representatives, May 7, 1991

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

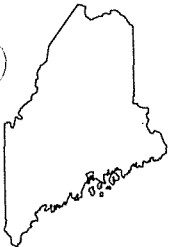
Presented by Representative ADAMS of Portland.

Cosponsored by Senator McCORMICK of Kennebec, Representative MARSH of West Gardiner and Speaker MARTIN of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Create the Maine Local Land Trust Board.



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

4 Sec. 1. 5 MRSA c. 354 is enacted to read:

6 CHAPTER 354

8 MAINE LOCAL LAND TRUST BOARD

10 §6251. Definitions

12 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Board. "Board" means the Maine Local Land Trust Board, as established in this chapter.

16 2. Local land trust. "Local land trust" means a nonprofit corporation or charitable trust, the purpose of which is to acquire and protect property in this State for conservation purposes and that qualifies as tax exempt under the federal Internal Revenue Code, Section 501(c)(3).

22 3. Property. "Property" means real estate or an interest in property, including but not limited to a conservation easement.

26 §6252. Board established

28 The Maine Local Land Trust Board is established to carry out the purposes of this chapter. The board consists of 5 members as follows.

32 1. Two members who are representatives of local land trusts are jointly appointed by the President of the Senate and Speaker of the House of Representatives.

36 2. One member who is a representative of a local land trust is appointed by the Governor.

38 3. One member who is a representative of a nonprofit corporation with statewide membership, the purpose of which is to promote conservation and environmental protection in this State, is appointed by the Governor.

44 4. The Director of the Bureau of Public Lands within the Department of Conservation serves as chair of the board.

46 A quorum of the board consists of 3 members provided that any action by the board in making a grant pursuant to subsection 4 requires the affirmative votes of 3 members. Board members serve one year terms, except that a member shall serve until the successor of that member is appointed.

2 §6253. Administrative powers of board

4 The board may adopt rules, in accordance with the Maine
6 Administrative Procedure Act, including application requirements
8 and review criteria regarding grants, for purposes of carrying
10 out the work of the board as provided in this section. In
12 developing rules, the board shall consider any comparable
14 guidelines of the Land for Maine's Future Board, the Bureau of
16 Public Lands and other relevant state agencies. The board may
18 also enter into contracts with any person, firm, corporation or
20 government entity to carry out its purposes. All agencies of
22 State Government shall comply with reasonable requests by the
24 board for assistance in carrying out its functions. The
26 Department of Conservation, Bureau of Public Lands and the State
28 Planning Office shall provide staff assistance to the board as
30 needed.

18 §6254. Matching grants

20 The board may make matching grants to local land trusts for
22 purposes of funding acquisitions of property having locally
24 significant or regionally significant natural, ecological,
26 wildlife, scenic, farm or open space values.

26 1. Requirements. In order to receive a grant, a local land
28 trust must enter into a contract with the board that contains
30 such provisions as the board prescribes, including but not
32 limited to the following:

30 A. Standards for the management of the property;

32 B. A prohibition against use of the property as security
34 for any debt, except with the prior written approval of the
36 board;

36 C. A prohibition against the property being closed to
38 public use, except with the prior written approval of the
40 board and as necessary to protect wild animals, plants or
42 other natural features and to otherwise regulate public use
44 in a reasonable manner;

42 D. A requirement that any subsequent sale or transfer of
44 the property must be subject to the terms of the contract
46 and must require the prior written approval of the board;

46 E. Prior to any sale or other transfer of the property, the
48 transferee must agree to enter into a new contract with the
50 board;

50 F. In the event of any material default under the terms of
52 the contract, title to the property vests in the State as
54 the board directs; and

2 G. The contract must be recorded at the applicable registry
4 of deeds or the deed conveying the property to the local
 land trust must state or incorporate by reference these
 provisions.

6
8 §6255. Maine Local Land Trust Fund

10 1. Fund established. There is established the Maine Local
 Land Trust Fund. The fund is a nonlapsing account to be
12 maintained and invested by the Treasurer of State and expended by
 the board for purposes of making grants to local land trusts as
 provided in this chapter.

14
16 2. Fund revenues. The fund shall consist of money from the
 following sources:

18 A. Gifts, bequests, donations and grants to the fund from
 private individuals, corporations, government agencies or
20 other legal entities;

22 B. Money stipulated for deposit in the fund as part of
 settlement of legal actions arising out of violations of
24 environmental laws;

26 C. Proceeds from the sale of bonds authorized for the
 purposes of this chapter;

28
30 D. Money from abandoned deposits pursuant to Title 32,
 section 1866, subsection 6; and

32 E. Any other money appropriated to the fund.

34 All money in the fund and all principal and income remaining
36 in the fund may be expended only for the purposes stated in this
 chapter.

38 §6256. Report

40 The board shall report annually to the joint standing
 committee of the Legislature having jurisdiction over natural
42 resource matters concerning its activities. That report must
 include an accounting of any money received or expended by the
44 fund, rules and procedures adopted by the board, grants made by
 the board and a description of any property and local land trust
46 involved in the grants and other significant activities of the
 board since the last report.

48
50 Sec. 2. 5 MRSA §12004-G, sub-§29-B is enacted to read:

52 29-B. Maine Local Not 5 MRSA
 Natural Land Trust Authorized §6252

Resources Board

2

4 **Sec. 3. 32 MRSA §1866, sub-§6**, as enacted by PL 1989, c. 470,
§§1 and 3, is amended to read:

6

8 **6. Distributors reports and payments.** Each distributor
shall, prior to March ~~1st of each year~~ 1, 1991, report to the
10 commissioner the total amount of deposits paid to it by any
12 person during the ~~preceeding~~ 1990 calendar year, as well as the
total amount of refunds paid by it to any person during that
14 calendar year. The difference between these amounts for each
distributor is the abandoned deposit amount. On or before March
1, 1991, each distributor except the Bureau of Alcoholic
Beverages shall pay the abandoned deposit amount to the Treasurer
of State for deposit in the General Fund. The Treasurer of State
shall pay 5% of that amount deposited to the Maine Local Land
Trust Fund established in Title 5, section 6255.

18

Sec. 4. 32 MRSA §§1866-A to 1866-H are enacted to read:

20

§1866-A. Deposit holding account; established

22

24 A person who initiates the deposit under section 1863 shall
maintain an account, known as a deposit holding account, separate
from all other revenues and accounts. The person shall place in
the deposit holding account all deposits the person initiates.
Except as provided in section 1866-D, amounts deposited in the
account may be expended only to meet the requirements of section
1866, subsections 1 and 3. Each account must be maintained by
the initiator on behalf of consumers and on behalf of the State.
Unclaimed deposits on beverage containers are property of the
person purchasing the container and are not property of the
person who initiated the deposit. Amounts in an account are not
income of the initiator. A person who initiates the deposit
under section 1863 after December 31, 1990 and prior to the
effective date of this Act shall place all deposits the person
initiated during that period in an account established under this
section.

38

§1866-B. Deposit holding account; reports

40

42 Commencing on March 15, 1991, and thereafter on the 15th day
of each month, a person who initiates the deposit under section
1863 shall report to the commissioner on all transactions
affecting that person's deposit holding account in the preceding
calendar month. The report must be made in a form prescribed by
the commissioner and must include the number of beverage
containers sold and the number of beverage containers returned
during that month, the amount of deposits received in and
payments made from the account in that month and in the most
recent 3-month period, any income earned on amounts in the
account during that month, the balance in the account at the

52

2 close of that month and other information the commissioner may
3 require to administer sections 1866 to 1866-G.

4 **§1866-C. Deposit holding account; abandoned deposits**

6 At the end of each month, any amounts required to be in a
7 deposit holding account pursuant to section 1866-A that are in
8 excess of the total amount of deposit refunds paid by the person
9 who established the account during the month and the preceding
10 month are abandoned deposit amounts.

12 **§1866-D. Deposit holding account; return of abandoned deposit**
13 **amounts**

14 Commencing on March 15, 1991, and thereafter on the 15th of
15 each month, a person who initiates the deposit under section 1863
16 shall pay to the Treasurer of State for deposit in the General
17 Fund all abandoned deposit amounts as determined at the close of
18 the preceding month. Payments must be made from the person's
19 deposit holding account.

22 **§1866-E. Deposit holding account; shortages and credits**

24 If in any month the authorized payments from a deposit
25 holding account under section 1866, subsections 1 and 3 exceed
26 the funds required to be in the account, the person who
27 established the account may take, with the approval of the
28 commissioner, that excess amount as a credit against future
29 payments to the Treasurer of State required under section 1866-D
30 for a period of no more than 3 years or until the credit is
31 depleted, whichever occurs first.

32 **§1866-F. Abandonment procedure; exemption**

34 Abandoned deposit amounts are not subject to the provisions
35 of Title 33, chapter 37.

38 **§1866-G. The Bureau of Alcoholic Beverages; exempt**

40 The Bureau of Alcoholic Beverages is exempt from the
41 provisions of sections 1866-A to 1866-F.

42 **STATEMENT OF FACT**

44 This bill provides for the protection of lands of local and
45 regional significance to the State. This purpose is accomplished
46 by the creation of a board, appointed by legislative leadership
47 and the Governor, to provide matching grants to local land trusts
48 for acquisition and permanent protection of locally important,
49 natural lands. This bill supplements the work of the Land for
50 Maine's Future Board, which provides for acquisition by the State
51 of natural lands having statewide significance.

2 The Maine Local Land Trust Fund is established in this bill
to fund the activities of the Maine Local Land Trust Board. A
4 primary source of the money for the fund is established in the
bill by creating a method for recapturing unclaimed or abandoned
6 beverage deposits, 5% of which is earmarked for the fund.