

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 258

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H.P. 205

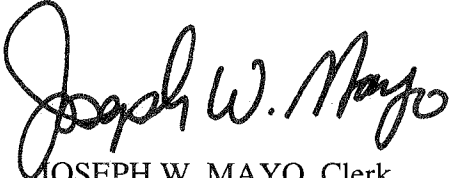
House of Representatives, January 21, 1997

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**An Act Concerning Compensation under the Natural Resources  
Protection Laws.**

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Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.  
Reference to the Committee on Natural Resources suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative COWGER of Hallowell.  
Cosponsored by Senator NUTTING of Androscoggin and  
Representatives: BROOKS of Winterport, DEXTER of Kingfield, McKEE of Wayne,  
MERES of Norridgewock, SAXL of Portland, SHIAH of Bowdoinham, WATSON of  
Farmingdale, Senator: KILKELLY of Lincoln.

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

2  
4           Sec. 1. 38 MRSA §480-Z is enacted to read:

6           **§480-Z. Compensation**

8           The department may establish a program providing for  
10 compensation of unavoidable freshwater or coastal wetland losses  
12 due to a proposed activity. Compensation must include the  
14 restoration, enhancement, creation or preservation of wetlands  
that have functions or values similar to the wetlands impacted by  
the activity, unless otherwise approved by the department.  
Preservation may include protection of uplands adjacent to  
wetlands.

16           The department may require that compensation include the  
18 design, implementation and maintenance of a compensation project  
20 or, in lieu of such a project, may allow the applicant to  
22 purchase credits from a mitigation bank or to pay a compensation  
fee. If compensation is required, the completion and maintenance  
of a project, purchase of credits or payment of a compensation  
fee must be a condition of the permit.

24           The department shall identify an appropriate project, or  
26 determine the amount of credits or compensation fee, based upon  
28 the compensation that would be necessary to restore, enhance,  
30 create or preserve wetlands with functions or values similar to  
32 the wetlands impacted by the activity. However, the department  
34 may allow the applicant to conduct a project of equivalent value,  
or allow the purchase of credits or payment of a compensation fee  
of equivalent value, to be used for the purpose of restoring,  
enhancing, creating or preserving other wetland functions or  
values that are environmentally preferable to the functions and  
values impacted by the activity, as determined by the department.

36           1. Location of project. A compensation project must be  
38 located on or adjacent to the project site, unless otherwise  
approved by the department.

40           2. Approval of mitigation bank. A mitigation bank from  
42 which any credits are purchased must be approved by the  
department.

44           3. Compensation fee. Any compensation fee must be paid  
46 into a wetlands compensation fund established by the department  
48 or to an organization authorized by the department as provided in  
paragraphs A and B. A compensation project funded in whole or in  
part from compensation fees must be approved by the department.

2 A. The department may establish a wetlands compensation  
 4 fund for the purpose of receiving compensation fees, grants  
 6 and other related income. The compensation fund must be a  
 8 fund dedicated to payment of costs and related expenses of  
 10 freshwater wetland restoration, enhancement, preservation  
 12 and creation projects. The department may make payments  
 14 from the fund consistent with the purpose of the fund.  
 16 Income received under this section must be deposited with  
 18 the State Treasurer to the credit of the fund and may be  
 20 invested as provided by law. Interest on these investments  
 22 must be credited to the fund.

24 B. The department may enter into an enforceable, written  
 26 agreement with a public, quasi-public or private, nonprofit  
 28 organization dedicated to the protection of wetlands and  
 30 other natural areas, for purposes of receiving compensation  
 32 fees and implementing compensation projects. If  
 34 compensation fees are provided to an authorized  
 36 organization, the organization must maintain records of  
 38 expenditures and provide an annual summary report to the  
 40 department. If the authorized agency is a state agency  
 42 other than the department, it shall establish a fund meeting  
 44 the requirements specified in paragraph A. If the  
 46 organization does not perform in accordance with this  
 48 section or with the requirements of the written agreement,  
the department may revoke the organization's authority to  
conduct activities in accordance with this section. If an  
organization's authorization is revoked, any funds remaining  
in the compensation fund must be provided to the department.

32 **Sec. 2. Allocation.** The following funds are allocated from the  
 34 Maine Environmental Protection Fund to carry out the purposes of  
 36 this Act.

	1997-98	1998-99
36 <b>ENVIRONMENTAL PROTECTION,</b>		
38 <b>DEPARTMENT OF</b>		
40 <b>Maine Environmental Protection</b>		
42 <b>Fund</b>		
44 All Other	\$957,000	\$957,000
46 Provides an allocation for		
48 wetlands compensation		
activities.		

## SUMMARY

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4       This bill authorizes the Department of Environmental  
6       Protection to consider compensation when determining whether a  
8       proposed alteration of freshwater or coastal wetlands would  
10       unreasonably adversely affect the wetlands. The department would  
      be able to require an applicant to compensate through a specific  
      project, mitigation bank credits or a compensation fee. The bill  
      also authorizes the administration of a dedicated account to  
      fulfill the purposes of freshwater wetland restoration,  
      enhancement, preservation and creation.