

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1868

H.P. 1309

House of Representatives, March 16, 1999

An Act to Preserve Public Access and Job Opportunities in the Maine Woods.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Senator PINGREE of Knox and
Representatives: BERRY of Livermore, BRYANT of Dixfield, COLWELL of Gardiner,
DUPLESSIE of Westbrook, GREEN of Monmouth, POWERS of Rockport, WATSON of
Farmingdale, Senator: KILKELLY of Lincoln.

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

4 **Sec. 1. 5 MRSA Pt. 15-C is enacted to read:**

6 **PART 15-C**

8 **MAINE WOODS**

10 **CHAPTER 357**

12 **MAINE WOODS BOARD**

14 **SUBCHAPTER I**

16 **GENERAL PROVISIONS**

18 **§6401. Short title**

20 This chapter may be known and cited as the "Maine Woods Act."

22 **§6402. Findings**

24 The Legislature finds that forestry is an integral part of
26 the economy and culture of the State and that the forestry
28 industry has made its land available for public recreational use,
30 which has given rise to the well-recognized tradition of high
32 quality outdoor recreational opportunities in this State. The
34 Legislature recognizes the importance of sustainable forestry
practices in maintaining the Maine woods for both forest products
production and public access and recreation. The Legislature
recognizes the State's obligation to assist in the maintenance of
the productive, working forest to support both the forest
products industry and public access and recreation in the Maine
woods.

36 **§6403. Definitions**

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

42 1. Act. "Act" means the Maine Woods Act.

44 2. Appraised value. "Appraised value" means the fair market
46 value of property without the consideration of the effect of
dedication or other restrictions related to preservation.

48 3. Board. "Board" means the Maine Woods Board as
established by this Act.

50 4. Bonds. "Bonds" means bonds or securities of the board
issued pursuant to this Act.

2 **5. Cooperating entities.** "Cooperating entities" means those
private nonprofit organizations, municipal conservation
4 commissions, local governments, federal agencies or other bodies
designated by the board, under section 6407, to assist the State
6 in the acquisition or management of lands.

8 **6. Fund.** "Fund" means the Maine Woods Fund as established
in section 6413.

10 **7. Holder of securities or holder.** "Holder of securities"
or "holder," when used with reference to securities of the board,
12 means a person who is the bearer of outstanding securities of the
board registered to bearer or not registered or the registered
14 owner of outstanding securities of the board that at the time of
registration are registered other than to bearer.
16

18 **8. Matching funds.** "Matching funds" means any combination
of public and private funds used in conjunction with the fund for
20 the purpose of this chapter, including, but not limited to:
private contributions of cash or securities; money from municipal
22 or other public agencies; money from a federal matching program,
subject to the limitations of applicable federal and state laws,
24 in an amount authorized by the federal program; contributions of
real property or interest in real property that serves the
26 acquisition needs of the State as determined by the board;
in-kind contributions; or any combination of those funds.
28 Contributions of land or interest in land must be valued for
purposes of this section in the amount of their appraised value.
30

32 **9. Notes.** "Notes" means notes of the board issued pursuant
to this Act.

34 **10. Project, projects.** "Project, projects or part of any
project" means the acquisition, improvement or management of real
36 or personal property to carry out the purposes of this Act.

38 **11. Securities.** "Securities" means bonds, notes or other
evidences of indebtedness under this Act.
40

42 **12. Stewardship account.** "Stewardship account" means an
account held separate and apart from all other money, funds and
44 accounts of a state agency for the purposes of management of land
owned in fee or less-than-fee simple, meeting the criteria
46 established in section 6406, subsection 1.

§6404. Maine Woods Board; members; compensation

48 **1. Establishment; membership.** The Maine Woods Board is
50 established as a body corporate and politic and a public

2 instrumentality of the State. The exercise by the board of
3 powers conferred by this chapter is considered to be the
4 performance of essential governmental functions. The board
5 consists of 7 members, of whom 3 are private citizens and 4 are
6 permanent members. The permanent members are the Commissioner of
7 Conservation; the Commissioner of Inland Fisheries and Wildlife;
8 the Treasurer of State and the Attorney General.

9
10 2. Appointments. The 3 members who are private citizens
11 are appointed by the Governor, subject to review by the joint
12 standing committee of the Legislature having jurisdiction over
13 conservation matters and subject to confirmation by the
14 Legislature.

15
16 3. Qualifications. The 3 members who are private citizens
17 are selected for their demonstrated commitment to sustainable
18 forestry or public access and recreation. At least one of those
19 members must have expertise in forestry practices and at least
20 one in conservation. Appointments must provide a broad
21 geographic representation of the State.

22 4. Terms. The members who are private citizens are
23 appointed to staggered terms of 4 years, except for the initial
24 appointments that are one member for a 2-year term, one member
25 for a 3-year term and one member for a 4-year term. Members who
26 are private citizens may not serve more than 2 consecutive 4-year
27 terms. When a vacancy occurs in the membership, the Governor
28 shall appoint a replacement member for the remainder of that
29 term. Each member of the board serves until that member's
30 successor is appointed and qualified.

31
32 5. Oath. Each member of the board before commencing the
33 member's duties shall take an oath to administer the duties of
34 that member's office faithfully and impartially. That oath must
35 be filed in the office of the Secretary of State.

36
37 6. Officers; quorum. The board shall elect a chair and a
38 vice-chair from its membership. The board may have a secretary
39 and a treasurer, who may be members of the board. Three members
40 of the board constitute a quorum, which is necessary for any
41 action taken by the board. A vacancy in the membership of the
42 board does not impair the right of a quorum to exercise the
43 rights and perform the duties of the board.

44
45 7. Compensation. Each member of the board is entitled to
46 compensation in accordance with Title 5, chapter 379. Each
47 member of the board must be indemnified by the board against
48 expenses incurred by that member in connection with the defense
49 of an action or proceeding in which the member is made a party by

2 reason of being or having been a member of the board and against
3 any final judgment rendered against the member in that action or
4 proceeding.

6 **§6405. Powers**

8 In order to carry out the purposes of this Act, the board
9 has powers with respect to a project, projects or part of any
10 project and other powers that may be necessary for the
11 performance of the following:

12 1. Perpetual succession. To have perpetual succession as a
13 body politic and corporate and as an instrumentality of the State;

14 2. Power to sue and be sued. To sue or initiate or appear
15 in any proceeding and the board may be sued on its written
16 contracts or in accordance with Title 1, section 409; Title 5,
17 chapter 375; or Title 14, chapter 741;

18 3. Official seal. To adopt and have an official seal and
19 alter the seal at pleasure;

20 4. Bylaws; rules. To adopt bylaws and, pursuant to Title
21 5, chapter 375, adopt any rule necessary or useful for carrying
22 out any of its powers or duties pursuant to this Act. Rules
23 adopted by the board are routine technical rules pursuant to
24 Title 5, chapter 375, subchapter II-A, unless otherwise expressly
25 designated;

26 5. Acquire real or personal property. To acquire real or
27 personal property or any interest in real or personal property,
28 including rights or easements, on either a temporary or long-term
29 basis by gift, purchase, transfer, foreclosure, lease or
30 otherwise, to improve, hold, sell with or without public bidding,
31 assign, lease, rent, encumber, mortgage or otherwise dispose of
32 any real or personal property or any interest in real or personal
33 property, or mortgage interests owned or in its control, custody
34 or possession and release or relinquish any right, title claim,
35 lien, interest, easement or demand, however acquired, including
36 threat of foreclosure;

37 6. Prepare and plan projects and facilities. To prepare or
38 cause to be prepared plans, specifications, designs and estimates
39 of costs for the project, projects or part of any project and
40 attendant facilities and from time to time to modify or cause to
41 be modified those plans, specifications, designs or estimates;

42 7. Provide for financing or refinancing. To provide
43 financing for any project, projects or part of any project or to
44 provide for refinancing of existing indebtedness and for the
45 performance of the following:

2 financing of the project, projects or part of any project and of
3 other necessary and usual attendant facilities, to borrow money
4 and to issue negotiable securities and to provide for the rights
5 of the holders of those securities;

6 8. Make and execute contracts and other financial
7 documents. To make and execute contracts and all other
8 instruments, including trust agreements and other financial
9 documents, and enter into such transactions as is necessary or
10 convenient for the exercise of its powers and functions under
11 this Act;

12 9. Agreements; acceptances; contributions; aid; grants. To
13 enter into agreements with and accept loans, aid, contributions
14 and grants from and the cooperation or assistance of the United
15 States, of any agency of the United States or the State or any
16 agency or governmental subdivision of the State for the purposes
17 of this Act, including, but not limited to, the development,
18 maintenance, operation and financing of any project, projects or
19 part of any project and to do whatever is necessary in order to
20 avail itself of those loans, aid, contributions, grants and
21 cooperation;

22 10. Agreements or other transactions. To enter into
23 agreements or other transactions with any person to effectuate
24 the purposes of this Act, including construction agreements,
25 purchase or acquisition agreements and loan or lease agreements
26 with leasing corporations or other financial intermediaries;

27 11. Accept aid or contributions. To receive and accept aid
28 or contributions from any source, of money, property, labor or
29 other things of value, to be held, used and applied to carry out
30 the purposes of this Act, subject to the conditions under which
31 those grants and contributions may be made, including, but not
32 limited to, gifts or grants from any department or agency of the
33 United States or the State for any purpose consistent with this
34 Act;

35 12. Insurance. To procure insurance against any loss in
36 connection with its securities and its property and other assets
37 in such amounts and from such insurers as it considers desirable;

38 13. Modification of contract, lease, indenture or
39 agreement. To the extent permitted under its contract with the
40 holders of securities, to consent to any modification of any
41 contract, lease, indenture or agreement of any kind to which the
42 board is a party;

43 14. Manage or operate real and personal property. To
44 manage or operate or cause to be managed or operated real and
45 personal property;

2 personal property, take assignments of leases and rentals or take
4 any other action necessary or incidental to the performance of
6 its duties under this Act;

8 15. Secured or unsecured loans. To make secured or
10 unsecured loans for the purpose of providing temporary or
12 permanent financing or refinancing of all or part of the cost of
14 any project, projects or part of any project, including the
16 refunding of any outstanding obligations, mortgages or advances
18 issued, made or given by any person for the cost of a project,
20 projects or part of any project;

22 16. Investments. Except as otherwise provided in this Act,
24 to invest any funds not needed for immediate use, including any
26 funds held in reserve, in property or securities in which
28 fiduciaries in the State may legally invest funds;

30 17. Appearances. To appear in its own behalf before
32 boards, commissions, departments or agencies of municipal
34 government, State Government or Federal Government;

36 18. Executive director; other employees. To employ an
38 executive director, consulting foresters, attorneys, accountants,
40 financial experts and such other employees and agents as may be
42 necessary in its judgment;

44 19. All acts granted or implied. To do any act necessary
46 or convenient to exercise the powers granted in this Act or
48 reasonably implied from this Act;

20. Contract with Maine Municipal Bond Bank. In carrying
out its powers under this section, the board shall, whenever
possible, contract with the Maine Municipal Bond Bank for
necessary clerical and administrative services, including use of
the Executive Director of the Maine Municipal Bond Bank as the
executive director, secretary and treasurer of the board;

21. Accept federal funds, gifts and contributions. To
accept federal funds, gifts and contributions, which include, but
are not limited to, money, annuities and investments or anything
of value for the purposes set forth in section 6428; and

22. Delegation to Bureau of General Services. To delegate
those powers that the board may specifically exercise, or cause
to be exercised, pursuant to subsection 5, 6 or 14 to the
Department of Administrative and Financial Services, Bureau of
General Services. The board may revoke such a delegation upon
the failure of the Bureau of General Services to discharge the
delegated powers. The Bureau of General Services may provide to

2 the board an indemnity and hold-harmless agreement with respect
3 to a delegation.

4 **§6406. Board responsibilities; acquisitions and management;**
5 **assistance**

6
7 **1. Acquisition and management.** The board shall acquire and
8 manage lands using sustainable forestry practices so that the
9 land:

10
11 **A. Produces income to contribute to sustaining the board's**
12 **responsibilities; and**

13
14 **B. To the extent possible considering paragraph A, is**
15 **available for public access and recreation.**

16
17 **2. Board responsibilities.** The board shall:

18
19 **A. Complete an assessment of the State's needs concerning**
20 **lands devoted to sustainable forestry and lands available**
21 **for public access and recreation. The board shall develop a**
22 **strategy and guidelines based on that assessment for use in**
23 **allocating the proceeds of the fund to ensure that the State**
24 **continues to have a viable part of its economy based on**
25 **sustainable forestry. Both the assessment and the**
26 **development of a strategy and guidelines must be conducted**
27 **with opportunities for participation by interested state**
28 **agencies and the public;**

29
30 **B. Develop a management plan to manage the Maine woods in**
31 **order to maintain the woods for sustainable forestry**
32 **practices and public access and recreation;**

33
34 **C. Receive and review funding requests from state agencies**
35 **and cooperating entities for acquisition projects that meet**
36 **guidelines;**

37
38 **D. In accordance with the strategy and guidelines developed**
39 **under paragraph A, authorize distribution of proceeds from**
40 **the fund for acquisitions of property or interests in**
41 **property;**

42
43 **E. Ensure that acquisition of land and management of land**
44 **by the board do not result in a decrease in property taxes**
45 **collected by the taxing authority by providing payments on**
46 **the land in lieu of taxes to that taxing authority where the**
47 **land is located; and**

48
49 **F. On January 31, 2001 and on January 31st every 2 years**
50 **thereafter, report to the joint standing committee of the**

2 Legislature having jurisdiction over conservation matters on
3 expenditures from the fund and revisions to the strategies
4 and guidelines.

6 3. Assistance. The Department of Conservation, the
7 Department of Inland Fisheries and Wildlife, the Department of
8 Transportation, the Department of Agriculture, Food and Rural
9 Resources, the State Planning Office and all other state agencies
10 shall provide staff support and assistance necessary to fulfill
11 the objectives of this chapter. If agency assistance is not
12 available, consultants may be hired from the proceeds of the fund
13 to assist the board in carrying out its responsibilities.

14 **§6407. Acquisition; title; management**

16 1. Uses of funds. The board may use the fund to acquire
17 real property with both fee and less-than-fee simple interest,
18 including, but not limited to, conservation easements, access
19 easements, scenic easements, other permanent interests in land
20 and long-term leases of at least 99 years if those acquisitions
21 are primarily natural lands meeting the criteria set forth in
22 this chapter.

24 2. Title. Title to all lands acquired pursuant to this
25 chapter must be vested solely in the State. Management
26 responsibilities for the acquired lands may be contracted by the
27 board to cooperating entities, subject to appropriate lease
28 arrangements, upon the approval of the board.

30 3. Payments. Payments from the fund may be made to
31 cooperating entities for qualifying lands acquired on behalf of
32 the State, provided that the board has issued to the cooperating
33 entity a letter of intent requesting assistance in the
34 acquisition. Upon submission to the board of a cooperating
35 entity's direct expenses for acquisition and related costs of an
36 authorized acquisition, the board shall authorize payment of
37 those expenses, as long as the total of all expenses does not
38 exceed the appraised value of the acquired property. Expenses
39 must be paid at intervals during the acquisition process, as
40 determined by the board.

42 4. Legislative approval. Land acquired under this chapter
43 may not be sold or used for purposes other than those stated in
44 this chapter unless approved by a 2/3 majority of the Legislature.

46 **§6408. Nominations**

48 Prior to taking an action to designate land for negotiation
49 for acquisition, the board shall send by certified mail or
50 deliver a notice of this intention to the owner or owners of land

2 within the area proposed by the board for acquisition, as the
3 identity and address of such owner or owners is shown on the tax
4 maps or other tax records of the municipality in which the land
5 is located. If the land is located within the unorganized
6 territory, notice must be sent to the owner or owners as shown on
7 the tax maps or other tax records of the State Tax Assessor.
8 After the completion of negotiations, the board shall publish a
9 notice of its intent to designate land for acquisition in a
10 newspaper or newspapers of general circulation that identifies
11 the land proposed by the board for acquisition and that notifies
12 the residents of the area that the board will accept public
13 comments on the proposed acquisition.

14 Any owner of land that has been nominated for acquisition
15 and is subject to the notice requirements of this section may
16 submit a properly sworn affidavit to the board indicating the
17 owner's unwillingness to sell. The affidavit is notice to the
18 board that continued evaluation of that land is inappropriate
19 and, unless the board intends to acquire an interest in the land
20 through the use of eminent domain pursuant to section 6410, the
21 board may not consider that land for acquisition.

22 **§6409. Acquisition criteria**

23 1. Determination of state significance. In determining
24 whether a proposed acquisition may be funded, in full or in part,
25 by the fund, the board shall consider whether the site is of
26 state significance and:

27 A. Is appropriate for the practice of sustainable forestry;
28 and

29 B. Provides nonmotorized or motorized public access to
30 recreation opportunities and natural resources.

31 2. Nonqualifying expenditures. The board may not fund
32 facilities for organized recreational activities, including, but
33 not limited to, ballparks, tennis courts or playgrounds.

34 **§6410. Use of eminent domain**

35 The board may expend funds to acquire an interest in land
36 obtained by the use of eminent domain only if the acquisition has
37 been approved by a 2/3 vote of the Legislature or is with the
38 consent of the owner or owners of the land, as the identity and
39 address of the owner or owners is shown on the tax maps or other
40 tax records of the municipality in which the land is located.
41 For purposes of this section, if the land is located within the
42 unorganized territory the identity of the owner or owners must be

2 as shown on the tax maps or other tax records of the State Tax
3 Assessor.

4 **§6411. Municipal approval of eminent domain**

6 1. Approval. Approval by the elected municipal officials
7 is required when more than 1% of a municipality's state valuation
8 is considered for acquisition by the board.

10 2. Transactions. Any acquisition by eminent domain funded
11 by the board, when the land exceeds either 50 acres or \$100,000
12 in assessed value, is subject to the approval of the municipality
13 in which the land is located. That approval may be obtained
14 either from the elected municipal officials or, if those
15 officials do not approve, by vote of the town meeting or by
16 referendum of the electorate.

18 3. Unorganized territory. If the land involved in an
19 acquisition by eminent domain is located within the unorganized
20 territory, this approval requirement does not apply.

22 **§6412. Data sharing**

24 If the board transfers to any local or federal agency
25 written information acquired under this chapter concerning any
26 land, the board shall notify the landowner of the transfer by
27 certified mail.

28 **§6413. Maine Woods Fund**

30 1. Fund established. There is established the Maine Woods
31 Fund that is administered by the board. The fund consists of the
32 proceeds from the sale of any bonds authorized for the purposes
33 set forth in subsection 2 and any funds received as contributions
34 from private and public sources for those purposes. The fund
35 must be held separate and apart from all other money, funds and
36 accounts. Eligible investment earnings credited to the assets of
37 the fund become part of the assets of that fund. Any balance
38 remaining in the fund at the end of any fiscal year may not lapse
39 but must be carried forward to the next fiscal year.

42 2. Fund proceeds. The proceeds of the fund may be applied
43 and expended to:

44 A. Acquire property or an interest in property that is
45 determined by the board appropriate for sustainable forestry
46 practices and public access and recreation;

48 B. Fund minor capital improvements on lands acquired by
49 proceeds from the fund to improve accessibility, as long as
50

2 these improvements do not exceed 5% of the appraised value
of the acquired property;

4 C. Manage lands for the purposes set forth in this chapter;
and

6 D. Pay the expenses of the board in carrying out its
8 responsibilities.

10 **§6414. Leasing or renting property by board**

12 For the purposes of this chapter, the board may lease, rent,
14 assign or otherwise dispose of a project, projects or part of any
project only to the State, any agency, instrumentality or
16 department of the State or branch of State Government or any
related agency of state, county or local government. Revenues
18 derived by the board from any lease or rental agreement must be
used, as necessary, to pay the principal, interest and other
20 associated costs on or with respect to any securities issued
pursuant to this chapter.

22 **SUBCHAPTER II**

24 **SECURITIES**

26 **§6415. Issuance of securities**

28 1. Resolution for issuance of securities. The board may
30 provide by resolution, at one time or from time to time, for the
issuance and sale of securities in the board's own name for the
32 purpose of paying the cost of any project, projects or part of
any project or the refinancing of existing indebtedness approved
34 by the board. Securities of the board may not be authorized and
issued except pursuant to a resolution adopted by the vote of not
36 less than a majority of the members of the board. The resolution
must describe the general purpose or purposes for which the
38 securities are to be issued and state the maximum principal
amount of the securities proposed to be issued. Securities may
40 not be issued by the board without a majority vote of approval in
each House of the Legislature.

42 2. Limitation on securities issued. The board may not
44 issue securities in excess of \$200,000,000 outstanding at any one
time, except for the issuance of revenue refunding securities
46 authorized by section 6419. The amount of securities that may be
outstanding in the name of the board may be increased by the
48 Legislature upon a showing by the board that its available
revenues are sufficient to support additional issuance of
50 securities and that the issuance of securities will not
materially impair the credit standing of the board, the

2 investment status of securities issued by the board or the
3 ability of the board to fulfill its commitments to holders of
4 securities. Nothing in this chapter may be construed to
5 authorize the board to issue securities to fund the construction,
6 reconstruction, purchase or acquisition of facilities without a
7 majority vote of approval in each House of the Legislature.

8 3. After issuance. After issuance, all securities of the
9 board must be conclusively presumed to be fully and duly
10 authorized and issued under the laws of the State and any person
11 or governmental unit is estopped from questioning their
12 authorization, sale, issuance, execution or delivery by the board.

14 4. Form of securities. The securities of each issue must
15 be dated, mature at such time or times not exceeding 40 years
16 from their date or dates and bear interest at such rate or rates,
17 including variable, floating or adjustable rates, as may be
18 authorized by the board. These securities may be made
19 redeemable, callable or subject to purchase or tender before
20 maturity, at such price or prices and under such terms and
21 conditions as may be provided for by the board prior to the
22 issuance of the securities. The board shall determine the form of
23 the securities, including any interest coupons to be attached to
24 the securities, if any, and the manner of execution of the
25 securities and shall fix the denomination or denominations of the
26 securities and the place or places of payment of principal and
27 interest, which may be at any bank, national banking association
28 or trust company within or without the State. Securities must be
29 executed in the name of the board by the manual or facsimile
30 signature of such official or officials as may be authorized in
31 the resolution to execute those securities. Coupons, if any,
32 attached to securities, must be executed with the facsimile
33 signature of the official or officials designated in the
34 resolution. If any official whose signature or a facsimile of
35 whose signature appears on any securities or coupons ceases to be
36 an official before the delivery of the securities, the signature
37 or the facsimile is valid and sufficient for all purposes, with
38 the same effect as if the official had remained in office until
39 the delivery.

40 Notwithstanding any of the other provisions of this Act or any
41 recitals in any securities issued under this Act, all such
42 securities are negotiable instruments issued under the laws of
43 the State. The securities may be issued in coupon or registered
44 form, or both, as the board may determine. Provisions may be
45 made for the registration of any coupon securities as to
46 principal alone and as to both principal and interest and for the
47 reconversion into coupon securities of any securities registered
48 as to both principal and interest. The board may sell the
49 securities in such manner, either at public or private sale, and
50

2 for such price as it determines is in the best interests of the
3 board.

4 5. Award and sell securities. The power to fix the date of
5 sale of any securities, to receive bids or proposals, to award
6 and sell any securities, to set the terms and provisions of any
7 securities and to take all other action necessary to sell and
8 deliver any securities may be delegated to any officer of the
9 board by a majority of the members of the board.

10 6. Proceeds of securities. The proceeds of the securities
11 of each issue must be used solely for the purpose or purposes for
12 which the securities were authorized and disbursed in such manner
13 and under such restrictions as the board may provide in the
14 resolution authorizing the issuance of the securities or in the
15 trust agreement securing the securities. If the proceeds of the
16 securities, by error of estimates or otherwise, are less than the
17 cost, additional securities, in like manner, may be issued to
18 provide the amount of the deficiency and, unless otherwise
19 provided in the authorizing resolution or in the trust agreement
20 securing the securities, are deemed to be of the same issue and
21 are entitled to payment from the same fund without preference or
22 priority of the securities first issued for the same purpose.
23 The resolution providing for the issuance of securities and any
24 trust agreement securing the securities may contain such
25 limitations upon the issuance of additional securities as the
26 board may consider proper. Additional securities must be issued
27 under such restrictions and limitations as may be prescribed by
28 the resolution or trust agreement. The board may provide for the
29 replacement of any securities that become mutilated, destroyed,
30 stolen or lost. Securities may be issued under this Act without
31 obtaining the consent of any department, division, commission,
32 board, bureau or agency of the State and without any other
33 proceedings or conditions or things other than those proceedings,
34 conditions or things that are specifically required by this Act.

35 7. Use of proceeds. The proceeds of the securities of each
36 issue must be used for the payment of all or part of the cost of
37 the project, projects or part of any project for which they are
38 authorized and must be disbursed in such manner and under such
39 restrictions as are provided in the resolution authorizing the
40 issuance of the bonds or in the trust agreement securing the
41 securities. Proceeds may be used to pay all costs incurred in
42 issuing the securities, interest on the securities for such time
43 as may be authorized by the board, subject to the provisions of
44 this Act, and to establish reserve funds and sinking funds for
45 the securities.

46 8. Interim or temporary securities. Prior to the
47 preparation of definitive securities, the board may, under like
48 conditions, issue interim or temporary securities.

2 restrictions, issue interim or temporary securities with or
3 without coupons, exchangeable for definitive securities when
4 those securities are executed and are available for delivery.

6 9. Securing of principal and interest. The principal of
7 and interest on any securities issued by the board, together with
8 any related costs and expenses, must be secured by a pledge of
9 the revenues and receipts derived by the board from the project,
10 projects or part of any project financed and from such other
11 revenues of the board as may be specially pledged by the board
12 and may be secured by a mortgage covering all or any part of the
13 project, projects or part of any project, including any
14 enlargements of and additions to the project, projects or part of
15 any project made. The resolution under which the securities may
16 be issued and any mortgage may contain any agreements and
17 provisions respecting the maintenance of the project, projects or
18 part of any project covered; the fixing and collection of rents,
19 fees or other charges; the creation and maintenance of special
20 funds from the revenues and any reserve funds; and the rights and
21 remedies available in the event of default. Those agreements and
22 provisions must be as the board considers advisable and not in
23 conflict with this Act. Each pledge, agreement and mortgage made
24 for the benefit or security of any of the holders of securities
25 continues in effect until the principal of and interest and any
26 related costs and expenses on the securities for the benefit for
27 which the securities were made have been fully paid.

28 **§6416. Pledges and covenants; trust agreement**

30 In the discretion of the board, any securities issued under
31 this Act may be secured by a trust agreement by and between the
32 board and a corporate trustee, which may be any trust company or
33 bank or national banking association having the powers of a trust
34 company within or without the State. The trust agreement or the
35 resolution providing for the issuance of the securities may
36 pledge or assign all or any portion of the revenues of the board
37 or any project, projects or part of any project of the board and
38 may contain such provisions for protecting and enforcing the
39 rights and remedies of the holders of securities as may be
40 reasonable and proper and not in violation of law. The
41 provisions may include covenants setting forth the duties of the
42 board in relation to: the acquisition of property; the
43 construction, reconstruction, renewal, replacement and insurance
44 of any project, projects or part of any project in connection
45 with which the securities have been authorized; the fees, charges
46 or rents to be charged or other payments to be made for the use
47 or payment for property; and the custody, safeguarding and
48 application of all money. It is lawful for any bank or trust
49 company incorporated under the laws of the State that may act as

2 depository of the proceeds of securities or of revenues of the
3 board or any project, projects or part of any project to furnish
4 such indemnifying bonds or to pledge such instruments as may be
5 required by the board. Any such trust agreement may set forth
6 the rights and remedies of the holders of the securities and of
7 the trustee and may restrict the individual right of action by
8 holders of securities.

9
10 To secure the payment of the securities, a trust agreement
11 or other financial document may mortgage or assign the mortgage
12 of any project, projects or part of any project and may create a
13 lien upon any or all of the revenues of the board or any project,
14 projects or part of any project or upon any or all of the real or
15 personal property constituting a part of the project, projects or
16 part of any project. The trust agreement, financial document or
17 resolution may contain such other provisions as the board may
18 consider reasonable and proper for the security of the holders of
19 securities.

20 A trust agreement or financial document containing a
21 mortgage or assignment of a mortgage with respect to a project,
22 projects or a part of any project may authorize the trustee or
23 mortgagee in the event of a default as defined, with respect to
24 the securities issued to provide for the costs of the project,
25 projects or a part of any project, to take possession of all or
26 any part of the mortgaged property constituting the project,
27 projects or a part of any project, to hold, operate and manage
28 the project, projects or a part of any project and, with or
29 without such taking of possession, to sell or from time to time
30 to lease the project, projects or a part of any project. A
31 judgment for possession may be without conditions and such a sale
32 or lease may not be subject to any right to redeem the mortgaged
33 property. Upon satisfaction at any time of the obligations
34 secured by the mortgage with respect to the project, projects or
35 a part of any project, which is deemed to include all applicable
36 fees and expenses, any surplus proceeds from the operation, sale
37 or lease of the project, projects or part of any project must be
38 paid to the mortgagor of the project, projects or a part of any
39 project or to those claiming under the mortgagee and, subject to
40 any sale or lease under this paragraph, the mortgaged property
41 with respect to the project, projects or part of any project
42 reverts or must be returned to the mortgagor or to those claiming
43 under the mortgagee.

44
45 All expenses incurred in carrying out the trust agreement,
46 financial document or resolution may be treated as a part of the
47 cost of the operation of a project, projects or part of any
48 project. All pledges of revenues under this Act are valid and
49 binding from the time when the pledge is made. The revenues
50 pledged and received by the board are immediately subject to the

2 lien of the pledges without any physical delivery or further
3 action under the Uniform Commercial Code. The lien of the
4 pledges is valid and binding as against all parties having claims
5 of any kind in tort, contract or otherwise against the board
6 irrespective of whether the parties have notice of the lien.

7 Any resolution or resolutions authorizing any securities or
8 any issue of securities or any trust agreement with respect to
9 any securities may contain provisions that are a part of the
10 contract or contracts with the holders of the securities in
11 relation to:

12 1. Pledging of full faith and credit of board. Pledging
13 the full faith and credit of the board or of all or any specified
14 revenues or assets of the board to secure the payment of the
15 securities or of any issue of securities, subject to such
16 agreements with holders of securities as may then exist;

17 2. Pledging of unencumbered revenues or assets of board.
18 Pledging all or any part of the unencumbered revenues or assets
19 of the board to secure the payment of the securities or any issue
20 of securities, subject to such agreements with holders of
21 securities as may then exist;

22 3. Setting aside of reserves or sinking funds. Setting
23 aside of reserves or sinking funds and the regulation and
24 disposition of the funds;

25 4. Limitations on use of proceeds of sale of securities.
26 Limitations on the use to which the proceeds of the sale of
27 securities may be applied and ; edging of those proceeds to
28 secure the payment of the securities or of any issue of
29 securities;

30 5. Limitations on issuance of additional securities.
31 Limitations on the issuance of additional securities, the terms
32 upon which additional securities may be issued and secured and
33 the refunding of outstanding or other securities;

34 6. Amendment or abrogation of contract terms; procedure.
35 The procedure, if any, by which the terms of any contract with
36 holders of securities may be amended or abrogated, the amount
37 that the holders of securities must consent to and how that
38 consent may be given;

39 7. Limitations on money expended by authority for
40 expenses. Limitations on the amount of money to be expended by
41 the board for operating, administrative or other expenses of the
42 board;

2 8. Vesting of rights in trustee; powers and duties in
3 trust. Vesting a trustee or trustees with such property, rights,
4 powers and duties in trust as the board may determine, which may
5 include any or all of the rights, powers and duties of the
6 trustee appointed for the holders of securities issued pursuant
7 to this Act;

8 9. Default. Defining the acts or omissions to act that
9 constitute a default in the obligations and duties of the board
10 to the holders of the securities and providing for the rights and
11 remedies of the holders of the securities in the event of that
12 default, including as a matter of right the appointment of a
13 receiver, but only if the rights and remedies are not
14 inconsistent with the general laws of the State and this Act; and

15 10. Other matters. Other matters that in any way affect
16 the security or protection of the holders of the securities.

17 **§6417. Trust funds**

18
19
20 All money received by the board is considered trust funds to
21 be held and applied solely as provided in this Act. An officer
22 to whom or to a bank, trust company or other fiscal agent or
23 trustee to which that money is paid shall act as trustee of the
24 money and shall hold and apply the money for the purpose of this
25 Act, subject to such rules as may be adopted by the board
26 pursuant to this Act and as the resolution or trust agreement may
27 provide.

28
29 **§6418. Remedies**

30
31 A holder of securities issued under this Act or of any of
32 the coupons appertaining to the securities, and the trustee under
33 any resolution or trust agreement, except to the extent the
34 rights given may be restricted by the resolution authorizing the
35 issuance of the securities or the trust agreement or an
36 applicable financial document may, either by action, mandamus or
37 other proceeding, protect and enforce all rights under the laws
38 of the State or granted under this Act or under the resolution,
39 financial document or trust agreement, including the appointment
40 of a receiver, and may enforce and compel the performance of all
41 duties required by this Act or by the resolution, financial
42 document or trust agreement to be performed by the board,
43 including the collecting of rates, rents, fees and charges for
44 the use of any or all of its facilities for any project, projects
45 or part of any project. Any such suit, action or proceeding must
46 be brought for the benefit of all the holders of the securities
47 and coupons, subject to the terms of any such resolution, trust
48 agreement or financial document.

49
50 **§6419. Revenue refunding securities**

2 The board may provide by resolution for the issuance of
4 revenue refunding securities of the board for the purpose of
6 refunding any obligations of the board or for the purpose of the
8 refinancing of existing indebtedness then outstanding that has
10 been issued or incurred under this Act or otherwise, including
12 the payment of any redemption premium and any interest accrued or
14 to accrue to the date of redemption of those obligations and, if
16 considered advisable by the board, for the additional purpose of
18 construction or enabling the construction of improvements,
20 extensions, enlargements or additions of the project, projects or
22 part of any project in connection with which the obligations to
24 be refunded were issued. The board may provide by resolution for
26 the issuance of securities of the board for the combined purpose
28 of refunding any obligations or revenue refunding securities then
30 outstanding or for the purpose of the refinancing of existing
 indebtedness that has been issued or incurred under this Act, or
 otherwise, including the payment of any redemption premium on
 that indebtedness and any interest accrued or to accrue to the
 date of redemption of the obligations and paying all or any part
 of the cost of selling the securities or acquiring or
 constructing or enabling the acquisition or construction of any
 additional project, projects or part of any project or any
 improvements, extensions, enlargements or additions of any
 project, projects or part of any project. The issuance of the
 securities, the maturities and other details of the securities,
 the rights and remedies of the holders of the securities and the
 rights, powers, privileges, duties and obligations of the board,
 with respect to the securities, are governed by this Act.

32 **§6420. Tax exemption**

34 Securities issued under this Act constitute a proper public
36 purpose and those securities, their transfer and the income from
 the securities, including any profits made on the sale of the
 securities, are exempt from taxation within the State.

38 **§6421. Governmental functions**

40 The carrying out by the board of the powers and duties
42 conferred upon it by this Act is considered to be the performance
44 of essential functions. Nothing contained in this Act may in any
 way limit or restrict the powers and duties of the board.

46 **§6422. Liberal construction**

48 This Act, being necessary for the welfare of the State and
50 its inhabitants, must be liberally construed to effect its
 purposes. To the extent of any conflict between this Act and any
 other law, this Act must prevail, but the power and authority

2 granted by this Act must be considered to be in addition to and
3 not in derogation of the power and authority granted by any other
4 law.

6 **§6423. Securities as legal investment**

8 The securities of the board are legal investments in which
9 all public officers and public bodies of the State, and its
10 political subdivisions; all municipalities and municipal
11 subdivisions, all insurance companies and associations and other
12 persons carrying on an insurance business; all banks, bankers,
13 banking associations, trust companies, savings banks and savings
14 associations, including savings and loan associations, building
15 and loan associations, investment companies and other persons
16 carrying on a banking business; all administrators, guardians,
17 executors, trustees and other fiduciaries; and all other persons
18 who are or may be authorized to invest in bonds or other
19 obligations of the State, may properly and legally invest funds,
20 including capital, in the control of or belonging to those
21 investors. The securities are also, by this Act, made securities
22 that may properly and legally be deposited with and received by
23 all public officers and bodies of the State or any agency or
24 political subdivision of the State and all municipalities and
25 public corporations for any purpose for which the deposit of
26 securities of bonds or other obligations of the State may be
27 authorized by law.

28 **§6424. Conflicts**

30 A member of the board may not participate in any decision on
31 any contract entered into by the board under this Act if that
32 member has any interest, direct or indirect, in any firm,
33 partnership, corporation or association that may be party to the
34 contract. The interest must be disclosed to the board in writing
35 and must be set forth in the minutes of the board.

36 **§6425. Actions against board**

38 A member of the board, while acting within the scope of the
39 authority of this Act, may not be subject to any personal
40 liability resulting from the exercise or carrying out of any of
41 the board's purposes or powers.

44 **§6426. Contract of State**

46 The State pledges and agrees with the holders of securities
47 that the State will not limit or alter the rights vested in the
48 board to acquire, construct, reconstruct, equip and operate a
49 project, projects or part of any project and related facilities;
50 to establish and collect fees, charges, rentals and other charges

2 referred to in this Act; and to fulfill the terms of any
3 agreements made with the holders of the securities. The State
4 also pledges and agrees that it will not impair the rights and
5 remedies of the holders of securities until the securities,
6 together with interest on securities, interest on any unpaid
7 installments on interest and all costs and expenses in connection
8 with any action or proceeding by or on behalf of the holders of
9 securities are fully met and discharged.

10 **§6427. Credit of State not pledged**

12 Securities issued under this Act do not constitute or create
13 any debt or debts, liability or liabilities on behalf of the
14 State or of any political subdivision of the State other than the
15 board or a loan of the credit of the State or a pledge of the
16 faith and credit of the State or of any political subdivision
17 other than the board, but are payable solely from the funds
18 provided for that payment. A security issued under this Act must
19 contain on its face a statement to the effect that neither the
20 State nor any political subdivision of the State is obligated to
21 pay the securities or the interest on the securities, except from
22 revenues of the board or the project, projects or part of any
23 project for which they are issued and that neither the faith and
24 credit nor the taxing power of the State or of any political
25 subdivision of the State is pledged to the payment of the
26 principal of or the interest on the securities. The issuance of
27 securities under this Act does not directly, indirectly or
28 contingently obligate the State or any political subdivision of
29 the State to levy or to pledge any form of taxation or to make
30 any appropriation for payment. Nothing contained in this section
31 may prevent or be construed to prevent the board from pledging
32 its full faith and credit to the payment of securities authorized
33 pursuant to this Act.

34 **§6428. Gifts and contributions**

36 The board may accept gifts and contributions as provided in
37 section 6405, subsection 21 for the purpose of acquiring or
38 managing a project, projects or part of any project. The board,
39 in accepting gifts of money, federal funds or other types of
40 income, shall place this money in a special account for the
41 purpose for which it is provided. The board may invest the money
42 as provided in this chapter, subject to any limitations imposed
43 by the donor.

44 **§6429. Continuing disclosure**

46 With respect to any securities of the board, the Treasurer
47 of State may enter into any agreement for the benefit of the
48 holders of securities of the board to provide annual financial
49 statements.

2 information with respect to the State in order to assist
3 underwriters of the securities of the board in complying with any
4 applicable regulation promulgated by the United States Securities
5 and Exchange Commission with respect to annual financial
6 information.

8

SUMMARY

10

11 This bill creates the Maine Woods Act and establishes the
12 Maine Woods Board as a public instrumentality of the State. The
13 board's central duty is to support sustainable forestry and
14 provide public access and recreational opportunities through the
15 acquisition and maintenance of forest lands. The board has
16 independent bonding authority to support the Maine Woods Fund, as
established in this bill.