

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2065

H.P. 1327

House of Representatives, December 13, 2023

An Act to Amend Maine's Aquaculture Leasing Laws

Submitted by the Department of Marine Resources pursuant to Joint Rule 203.

Received by the Clerk of the House on December 11, 2023. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative HEPLER of Woolwich.

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

2 **Sec. 1. 12 MRSA §6072, sub-§1-A**, as amended by PL 2021, c. 557, §1, is further
3 amended to read:

4 **1-A. Lease requirement; finfish and suspension culture.** Except as provided in
5 ~~paragraphs B and B-1~~ and sections 6072-A, 6072-B and 6072-C, it is unlawful for a person
6 who does not have a lease issued by the commissioner under this section to construct or
7 operate in the coastal waters of the State a facility for the culture of finfish in nets, pens or
8 other enclosures or for the suspended culture of any other marine organism. For the
9 purposes of this subsection, "suspended culture" includes all forms of culture except for the
10 placement of marine organisms on the ocean bottom without the use of gear of any type.

11 ~~B. A person operating a facility in the coastal waters of the State, on or before the~~
12 ~~effective date of this subsection, for the culture of finfish in nets, pens or other~~
13 ~~enclosures or for the suspended culture of shellfish that is not leased under this section~~
14 ~~must register the facility with the commissioner on or before January 1, 1992 on a form~~
15 ~~specified by the commissioner. A person registering under this paragraph must submit~~
16 ~~a completed lease application on or before July 1, 1992. A registrant whose application~~
17 ~~under this paragraph is denied shall immediately cease operations at the facility and~~
18 ~~remove all related structures from the coastal waters of the State.~~

19 ~~B-1. A person operating a facility in the coastal waters of the State for the suspended~~
20 ~~culture of a marine organism other than shellfish that is not leased under this section~~
21 ~~must register the facility with the commissioner on or before January 1, 1994 on a form~~
22 ~~specified by the commissioner. A person registering under this paragraph must submit~~
23 ~~a completed lease application on or before July 1, 1994. A registrant whose application~~
24 ~~under this paragraph is denied shall immediately cease operations at the facility and~~
25 ~~remove all related structures from the coastal waters of the State.~~

26 ~~C. The commissioner may not consider an application for a lease under this section on~~
27 ~~an area registered under paragraph B or B-1 from a person other than the registrant~~
28 ~~prior to rendering a final decision on any application submitted by a registrant under~~
29 ~~paragraph B or B-1.~~

30 A person who violates this subsection is subject to a civil penalty, payable to the State, of
31 no more than \$1,000 for each day of the violation.

32 **Sec. 2. 12 MRSA §6072, sub-§5**, as amended by PL 1999, c. 591, §1, is further
33 amended to read:

34 **5. Application review.** The commissioner shall review the application and set a
35 hearing date if the commissioner is satisfied that the written application is complete, the
36 application indicates that the lease could be granted and the applicant has preliminarily
37 demonstrated that the applicant has the financial and technical ~~capability~~ capabilities
38 to carry out the proposed activities. When the commissioner has determined that the
39 application is complete, the commissioner shall forward a copy of the completed
40 application and notice of hearing to the known riparian owners of riparian land within 1,000
41 feet of the proposed lease and to the municipal officers of the municipality or municipalities
42 in which or adjacent to which the lease is proposed. A municipality must be granted
43 intervenor status upon written request.

1 **Sec. 3. 12 MRSA §6072, sub-§6, ¶B**, as amended by PL 2021, c. 52, §2, is further
2 amended to read:

3 B. Under Notwithstanding the provisions of Title 5, section 9052, subsection 3,
4 paragraph A, the leasing procedure must require notice to the general public notice of
5 hearing must be published once in a newspaper of general circulation in the area of the
6 State affected and by any other manner considered appropriate by the department. The
7 commissioner may require the applicant to reimburse the department for costs incurred
8 by the department in providing public notice under this paragraph.

9 **Sec. 4. 12 MRSA §6072, sub-§7-A, ¶F**, as amended by PL 2011, c. 655, Pt. II, §4
10 and affected by §11 and amended by c. 657, Pt. W, §5, is further amended by repealing the
11 first blocked paragraph.

12 **Sec. 5. 12 MRSA §6072, sub-§12**, as amended by PL 2021, c. 52, §5, is further
13 amended by amending the 3rd blocked paragraph to read:

14 A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4.
15 Public notice must be given to the entities required to receive notice under subsection 6. A
16 person may provide to the commissioner comments on the proposed lease renewal ~~within~~
17 30 days of receipt of notice by the 30-day deadline specified in the applicable notice to the
18 entities required to receive notice under subsection 6 or within 30 days of publication of
19 the proposed renewal. A hearing must be held if it is requested in writing by 5 25 persons
20 within the 30 days. The commissioner may review multiple leases concurrently during the
21 lease renewal process.

22 **Sec. 6. 12 MRSA §6072, sub-§12-A, ¶A**, as amended by PL 2009, c. 229, §2, is
23 further amended to read:

24 A. An application to transfer a lease pursuant to this subsection must be made on forms
25 provided by the commissioner. When the commissioner determines that the
26 application is complete, the commissioner shall give notice of the proposed transfer to
27 the public, the owners of riparian land within 1,000 feet of the lease site and the
28 municipal officers of the municipality within which the lease is located. The notice
29 must provide an opportunity to submit written comments on the proposed lease transfer
30 within 14 30 days.

31 **Sec. 7. 12 MRSA §6072, sub-§12-D** is enacted to read:

32 **12-D. Conversion of a limited-purpose lease.** A person who holds a limited-purpose
33 lease for commercial purposes pursuant to section 6072-A may apply to convert that lease
34 to a lease under this subsection as long as the application is for the same lease area and
35 same operations authorized by the limited-purpose lease.

36 A. An application to convert a limited-purpose lease pursuant to this subsection must
37 be made on forms provided by the commissioner and must be received in accordance
38 with time frames specified in section 6072-A, subsection 20-A. A person may submit
39 information used in applying for the limited-purpose lease to meet the application
40 requirements of this subsection. If the commissioner determines the information is not
41 valid or relevant to the lease application under this subsection, the commissioner shall
42 require the person to submit additional information.

1 B. In any municipality with a shellfish conservation program under section 6671, the
2 commissioner may not issue a lease under this subsection for the intertidal zone within
3 the municipality without the consent of the municipal officers. The applicant must also
4 submit written permission from every owner of riparian land whose land to the low-
5 water mark will be used.

6 C. Upon determining that an application is complete, the commissioner shall provide
7 notice of the conversion application to owners of riparian land within 1,000 feet of the
8 proposed location of the lease and to the municipal officers of the municipality in which
9 the lease activity would take place. The applicant shall provide the names and addresses
10 of known owners of riparian land within 1,000 feet of the proposed location of the
11 lease. The names and addresses must be taken from the current property tax roster on
12 file at the local municipal office or, for an unorganized territory, with the Department
13 of Administrative and Financial Services, Bureau of Revenue Services. The
14 commissioner shall publish a summary of the application in a newspaper of general
15 circulation in the area of the State in which the lease conversion is proposed. The
16 commissioner may require the applicant to reimburse the department for costs incurred
17 by the department in providing public notice under this paragraph. A person may
18 provide comments to the commissioner on the application by the 30-day deadline
19 specified in the applicable notice to owners of riparian land or municipal officers or
20 within 30 days of publication of the newspaper notice.

21 D. The department may consider the original site review when the lease was evaluated
22 pursuant to section 6072-A or conduct another assessment of the proposed lease and
23 surrounding area to evaluate the possible effects of the lease conversion on any new
24 uses of the area, including ecologically significant flora and fauna as they relate to the
25 conditions specified in subsection 7-A.

26 E. The commissioner may hold a public hearing on the proposed conversion. The
27 commissioner shall hold a public hearing if 25 or more persons request a public hearing
28 during the 30-day comment periods provided in paragraph C.

29 F. The commissioner shall provide notice of a public hearing to owners of riparian
30 land within 1,000 feet of the proposed location of the lease and to the municipal officers
31 of the municipality in which the operations would take place. The commissioner shall
32 publish notice of a hearing in a newspaper of general circulation in the area of the State
33 in which the lease conversion is proposed at least 30 days before the hearing. The
34 commissioner may require the applicant to reimburse the department for costs incurred
35 by the department in providing public notice under this paragraph.

36 G. In evaluating the proposed lease conversion, the commissioner shall take into
37 consideration the conditions specified in subsection 7-A.

38 **Sec. 8. 12 MRSA §6072, sub-§13, ¶B**, as amended by PL 2017, c. 159, §5, is
39 further amended to read:

40 B. For procedures to issue, transfer, review, assign, expand, convert or revoke leases;

41 **Sec. 9. 12 MRSA §6072-A, sub-§5**, as amended by PL 2021, c. 52, §10, is further
42 amended to read:

43 **5. Notice of application.** Upon determining that an application is complete, the
44 commissioner shall provide notice of a limited-purpose lease application to owners of

1 riparian land within 1,000 feet of the proposed location of the lease and to the municipal
2 officers of the municipality in which the limited-purpose lease activity would take place.
3 The applicant shall provide the names and addresses of known owners of riparian
4 landowners land within 1,000 feet of the proposed location of the lease. The names and
5 addresses must be taken from the current property tax roster on file at the local municipal
6 office or, for an unorganized territory, with the Department of Administrative and Financial
7 Services, Bureau of Revenue Services ~~for an unorganized territory~~. The commissioner
8 shall publish a summary of the application in a newspaper of general circulation in the area
9 proposed for a limited-purpose lease. The commissioner may require the applicant to
10 reimburse the department for costs incurred by the department in providing public notice
11 under this subsection. A person may provide, ~~within 30 days of receipt of notice or within~~
12 ~~30 days of publication of a limited-purpose lease summary,~~ comments to the commissioner
13 ~~comments~~ on the proposed limited-purpose lease by the 30-day deadline specified in the
14 applicable notice to owners of riparian land or municipal officers or within 30 days of
15 publication of the limited-purpose lease summary.

16 **Sec. 10. 12 MRSA §6072-A, sub-§6**, as enacted by PL 1997, c. 231, §6, is amended
17 to read:

18 **6. Public hearing.** The commissioner may hold a public hearing on the proposed
19 limited-purpose lease. The commissioner shall hold a public hearing if § 25 or more
20 persons request a public hearing within the 30-day comment periods provided in subsection
21 5.

22 **Sec. 11. 12 MRSA §6072-A, sub-§20-A** is enacted to read:

23 **20-A. Extension for conversion of a commercial lease.** If a person who holds a
24 limited-purpose lease for commercial aquaculture research and development submits an
25 application under section 6072, subsection 12-D for that same lease area and the same
26 operations before the expiration of that limited-purpose lease, and if the commissioner does
27 not make a decision under section 6072, subsection 12-D before the expiration of that
28 limited-purpose lease, the limited-purpose lease remains in effect until the commissioner
29 makes a decision under section 6072, subsection 12-D. If the commissioner grants the
30 person a lease under section 6072, subsection 12-D, that person's limited-purpose lease
31 remains in effect until the effective date of the lease issued under section 6072, subsection
32 12-D. If the commissioner denies that person a lease under section 6072, subsection 12-D,
33 that person's limited-purpose lease remains in effect until 30 days after the commissioner's
34 decision.

35 **Sec. 12. 12 MRSA §6673, sub-§2-A**, as amended by PL 2011, c. 655, Pt. II, §5
36 and affected by §11 and amended by c. 657, Pt. W, §5, is further amended by repealing the
37 first blocked paragraph.

38 SUMMARY

39 This bill amends the laws governing the aquaculture leasing process in the following
40 ways. It eliminates provisions that are no longer applicable regarding operations that were
41 in effect prior to January 1, 1994. It specifies that the demonstration of financial and
42 technical capabilities at the time of lease application is a preliminary determination. It
43 amends the notice requirement for standard lease applications to the general public to
44 specify that notice must be published once in a newspaper of general circulation in the area

1 of the State affected and by any other manner considered appropriate by the Department of
2 Marine Resources. It clarifies that comments on a proposed lease renewal or a limited-
3 purpose lease application must be submitted within the 30-day deadline specified in the
4 notice, rather than within the 30 days of receipt of the notice. It increases from 5 to 25 the
5 number of persons required to request a hearing on a lease renewal or a limited-purpose
6 lease application. It increases from 14 to 30 the number of days during which comments
7 may be provided on a lease transfer. Finally, it creates a process by which a person who
8 holds a limited-purpose lease may apply to convert that lease into a standard lease, as long
9 as it is for the same lease area and operations that were authorized by the limited-purpose
10 lease. A lease conversion would not require a hearing unless requested by 25 or more
11 persons.