

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
One Hundred and Sixth Legislature  
1ST SPECIAL SESSION  
JANUARY 2, 1974 TO MARCH 29, 1974  
AND BY THE  
One Hundred and Seventh Legislature  
REGULAR SESSION  
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,  
SECTION 164, SUBSECTION 6.

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THE KNOWLTON AND MCLEARY COMPANY  
FARMINGTON, MAINE  
1975

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PUBLIC LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE  
One Hundred and Seventh Legislature

1975

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## CHAPTER 287

### AN ACT to Include the Right to Use Submerged Lands as Part of Environmental Licensing.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Environmental Protection, the Department of Inland Fisheries and Game and the Land Use Regulation Commission issue licenses, permits and approvals under the protection and improvement of waters statutes, the great ponds statute, the wetlands statute, the alteration of rivers, streams and brooks statute and the land use regulation statutes; and

Whereas, submerged lands are largely in the public domain, held in trust by the sovereign State of Maine for the public; and

Whereas, it is in the public interest to secure an economic return for the public on large scale commercial uses of this public land; and

Whereas, it is also in the public interest to exempt small or noncommercial users from fees and also to guarantee for such users adequate real property rights in state-owned submerged land; and

Whereas, the Bureau of Public Lands within the Department of Conservation has jurisdiction but only limited authority to convey interests in such lands; and

Whereas, the inability to authorize projects on submerged lands causes inconveniences and hardships for the citizens of the State of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA § 514-A is enacted to read:

§ 514-A. Submerged and intertidal lands owned by the State

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following words shall have the following meanings:

**A. Permanent.** "Permanent" means occupying submerged and intertidal lands owned by the State during 7 or more months during any one calendar year.

**B. Occupying.** "Occupying" refers to the total area of the structure or alteration itself to the extent that the area within its boundaries is directly upon or over such state-owned lands.

2. **Actions.** The Director of the Bureau of Public Lands may take the following actions with respect to submerged and intertidal lands under his jurisdiction.

**A. Lease,** upon such terms and conditions and for such consideration as he deems reasonable, for a term of years not exceeding 30, the right to

dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks or other permanent structures on lands, including submerged and intertidal lands owned by the State.

B. Grant, upon such terms and conditions, but without valuable consideration, assignable easements for a term of years not exceeding 30 for the use of submerged and intertidal lands for the purposes permitted in paragraph A, provided that such use:

- (1) Is for the exclusive benefit of the abutting upland owner for non-commercial recreational or improvement purposes only and is not intended as an amenity in furtherance of a commercial purpose;
- (2) Occupies a total of not more than 100 square feet of state-owned land for any lawful purpose;
- (3) Occupies a total of not more than 500 square feet of state-owned land for the exclusive purpose of landing or processing shellfish, finfish or other natural products of the sea; or
- (4) Is for harbor improvement by the Federal Government.

C. Adjust from time to time the terms, conditions and consideration applicable to any leasehold or easement entered into under this section in any parcel of state-owned land, including submerged or intertidal land.

D. Review from time to time, in the case of easements, the purposes for which the land conveyed has actually been used, and in the event any such purpose is found to be inconsistent with the criteria set forth in paragraph B for eligibility for an easement, such easement shall terminate and the director may enter into a leasehold agreement with the holder of the easement in accordance with the provisions of paragraph A.

3. Constructive easements. In the event the director fails to take final action on an application for an easement for a project eligible for such easement under subsection 2, paragraph B, within 30 days after receipt of such application, then an easement for a term of 30 years on the state-owned land directly underlying the project shall be deemed to have been granted. The owners of all structures actually upon submerged and intertidal lands on the effective date of this Act shall be deemed to have been granted such an easement.

4. Consultation. The director shall consult with the Commissioners of Conservation, Marine Resources and Inland Fisheries and Game and such other agencies or organizations as he may deem appropriate in developing and implementing terms, conditions and consideration for conveyances under this section.

Sec. 2. 38 MRSA § 1022, as last amended by PL 1973, c. 513, § 22, is further amended by adding at the end a new paragraph to read:

Any licenses issued under this chapter shall constitute an approval and determination by the issuer thereof that the licensed wharf or weir constructed and operated within the limits imposed by such license does not adversely affect nor impair the interests of the issuer in such area, including navigation

and the rights of private citizens in the area. Such license does not confer any right, title or interest in submerged or intertidal lands owned by the State.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 19, 1975

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## CHAPTER 288

### AN ACT Concerning the Maine Consumer Credit Code and the Insurance Statutes.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, section 4.104, subsection 3 of the Code is ambiguous and in conflict with certain portions of the insurance laws, creating a situation where enforcement of this subsection by this bureau could result in the initiation of several lawsuits by various credit grantors and insurance companies; and

Whereas, the insurance law does not cover transactions of more than 5 years, while the Code does not cover transactions involving credit insurance of more than 10 years, creating an inequitable situation from an enforcement viewpoint; and

Whereas, section 5.103, subsection 5, paragraph B of the Code is meaningless and unenforceable due to a drafting error in the original bill in reference to the word "execution"; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 9-A MRSA § 4-103, sub-§ 1, ¶ A, as enacted by PL 1973, c. 762, § 1, is amended to read:

**A.** Insurance provided in relation to a credit transaction in which a payment is scheduled more than ~~10~~ 15 years after the extension of credit;

**Sec. 2.** 9-A MRSA § 4-104, sub-§ 3, as enacted by PL 1973, c. 762, § 1, is repealed and the following enacted in place thereof:

3. In any consumer credit sale or any supervised loan, except pursuant to open-end credit sales, a creditor may not contract for or receive a separate charge for consumer credit insurance providing for accident and health coverage unless there is a minimum payment of \$30 per month or a loan duration of at least 18 months. All consumer credit insurance providing for accident and health coverage in any consumer credit sale or any supervised loan shall provide for a waiting period of 30 days or more. For the purposes of this subsection, a waiting period is defined as a stated period after the inception of a disability for which no benefits are paid.